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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Barry Rosen,

Plaintiff,

vs.

eBay, Inc., and Does 1 through 10,

Defendants.

**Case No. CV13-06801 MWF (Ex)**

**Declaration of Barry Rosen in  
Support of Motion for Summary  
Judgment re Liability**

Date: November 3, 2014

Time: 10:00 a.m.

Dept.: 1600

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1 I, Barry Rosen, declare:

- 2 1. I am the Plaintiff in this action. I have personal knowledge of the following facts  
3 and could and would testify thereto if called as a witness in this case.

4 **My Ownership of the Copyrights in Dispute**

- 5 2. I am a professional photographer and reside in Los Angeles, California. I have  
6 more than 30 years of experience as a photographer. I personally took the  
7 photographs that are at issue in this case that are listed in Exhibit 1 hereto, which is  
8 a copy of Exhibit 1 to the Second Amended Complaint filed in this action  
9 (“Photographs”). I am the owner of all right, title, and interest to each of the  
10 copyrights in the Photographs.
- 11 3. The Photographs are registered with the Copyright Office under numerous  
12 registration numbers. True and correct copies of the Registrations of Copyright for  
13 the Photographs and copies of the relevant Photographs related to each of the  
14 registrations are attached as Exhibit 1 hereto.
- 15 4. In creating the Photographs, I personally arranged all aspects of the photo shoots,  
16 including deciding on the makeup artist, style of makeup, style of hair, clothing,  
17 props, and the time and location of the photo shoot. I also selected the lighting,  
18 film, lens, shutter speed, aperture, and exact moment that the Photographs would  
19 be taken, and I took each Photograph. The photo-shoots were also initiated by me  
20 and were not done at the direction or commission by any other parties. As such,  
21 these Photographs are all my original works of authorship.
- 22 5. I have never authorized the making of any of the infringing photographic prints of  
23 the Photographs involved in this case. Thus, the photographic prints of my  
24 Photographs that were offered for sale were not authorized by me and were not  
subject to the “first sale” doctrine.
6. While some, but not all, of my photographs contained in magazines may have been  
authorized by me for use in the magazines, I have never authorized the making of

1 the copies of such Works for the purpose of reselling the magazines or pictures of  
2 the magazines on eBay.

- 3 7. I never gave permission to eBay or the eBay users to make the copies of the  
4 Photographs to sell, to publicly display, or in any way distribute or offer for sale  
5 copies of my Photographs on eBay.

6 **The infringing listings and the infringing image files associated with the listings.**

- 7 8. eBay's listings are generally infringing in two separate ways. First, with respect to  
8 the listing of prints of my photographs, none of such prints were ever authorized to  
9 be made by me or to sold or publicly displayed or distributed. Because eBay  
10 requires its users to upload copies of what they are selling, users make  
11 unauthorized electronic copies of these prints, which are uploaded to eBay's  
12 servers. Even if a listing for an authorized copy of one of my photographs is taken  
13 down by eBay, eBay does not, as a matter of course, delete from its system the  
14 actual infringing image file. Such file is accessible, and accessed, by search  
15 engines, resulting in additional infringements. During discovery, I requested eBay  
16 to produce documents showing when it actually removed the infringing listing as  
17 well as the infringing image files. eBay did not produce responsive documents  
18 reflecting this. Cara Baldwin, eBay's Rule 30(b)(6) designee, testified at her  
19 deposition that eBay only removed the infringing image files after the Second  
20 Amended Complaint was filed in this case, which was filed on December 16, 2013.  
21 Thus, these infringing image files were accessible until at least December 16,  
22 2013, months after I gave eBay notice of the infringements.

- 23 9. Some of the listings were for the sale of original copies of magazines. In some, but  
24 not all cases, I had authorized the magazines to use copies of my photographs in  
the magazines (but for no other purpose). Because of eBay's photograph policy,  
sellers of magazines containing my photographs were required by eBay to also  
make copies of the magazines they were selling, and sellers made unauthorized

1 copies of my photographs and posted them on eBay. The copying, public display,  
 2 and distribution of the copies of the photographs from the magazines were never  
 3 authorized by me and infringed my copyrights. Thus, unless and until eBay  
 4 removed access to the infringing image files (not just access to the listings), such  
 5 unauthorized images could be, and were, copied by others, publicly displayed, and  
 6 distributed.

7 **eBay was aware that I was claiming that sellers of magazines did not have the right**  
 8 **to post copies of my photographs in attempting to sell magazines on eBay.**

9 10. In 2003, I had a discussion by phone and sent an email about the posting of photos  
 10 from magazines I had licensed some of my images to eBay's senior IP counsel  
 11 Michael Richter, warning eBay that the unauthorized use of copies of my  
 12 photographs to sell the magazines on eBay was a clear violation of my exclusive  
 13 rights as a copyright owner. A true and correct copy of my 2003 email to Richter is  
 14 attached hereto as Exhibit 174.

15 11. In 2013, after I had sent NOCI's to eBay and eBay had refused to remove listings  
 16 for magazines containing my photographs, which listings included unauthorized  
 17 copies of my photographs, I specifically advised Larry Taylor, eBay's "legal  
 18 specialist," that the sellers did not have the right to use copies of my photographs.  
 19 In an email dated September 4, 2013, I stated to Mr. Taylor:

20 In response to your inquiry, pursuant to 17 USC § 109(c), the owner of a  
 21 particular copy lawfully made may only display the item directly or by the  
 22 projection of no more than one image at a time, to viewers present at the  
 23 place where the copy is located. As these listing all involve copies of my  
 24 works that have been made and/or posted onto eBay without my express  
 authorization, and since such copies are beyond the scope of what is allowed  
 under the law, all such copies are fully unauthorized and are therefore  
 copyright infringements. (See Exhibit 96 hereto.)

12. I repeated this to Mr. Taylor in my 2nd email of September 4, 2013, in which I  
 stated:

Your assessment is not exactly correct, but it is close. The situation is that the sellers can sell/resell the items under first sale doctrine as they are lawfully made items. However, under 17 USC § 109(c), they cannot make copies of my photographic works from said items and post them onto eBay as part of sales listings without my express authorization. Because they have not abided by their obligations under 17 USC § 109(c) and since such copies are fully beyond the scope of what is allowed under the law, all such copies of my works made by the sellers and posted on eBay are fully unauthorized and are therefore copyright infringements and have been reported to eBay as such. (See Exhibit 97 hereto.)

13. Thus, eBay was fully aware that its users were infringing my photographs by making unauthorized copies of my photographs and uploading them to eBay in attempting to sell magazines containing my images.

**2007 complaint against eBay re use of images**

14. eBay was made fully aware of the failure to remove images with my 2007 complaint. A true and correct copy of the 2007 complaint is attached hereto as Exhibit 46.
15. eBay had continually failed to remove the image files from its servers after it receives a NOCI even after being made aware of the issue on multiple occasions and in the 2007 complaint.
16. Even after it was made aware of its continuing failure to remove images after receiving an NOCI in the 2<sup>nd</sup> amended complaint, eBay still failed to remove images. Attached hereto as Exhibits 174 and 175 are copies of images on eBay.com in January 2014, where the listings were reported to eBay on December 26, 2013, but eBay still failed to remove the images for weeks.

**Image use, sizes, availability**

17. The images sizes that eBay requires users to post are of a size that is much bigger than is necessary for the intended purpose. eBay requires that each listing contain at least one photo and that the photos be at least 500 pixels on the long dimension (about 7 inches) up to 1600 pixels (about 22 inches) or it will not allow the listing

1 to be posted on its website. I have also personally encountered this issue when I  
2 tried to post images smaller than required related to some surplus audio/video  
3 equipment that I was selling on eBay. A true and correct copy of eBay's image  
4 policy is attached hereto as Exhibit 105.

5 18. eBay fails to take steps to protect posted images from being copied or downloaded,  
6 when it could easily do so. See Declaration David Sterling.

7 19. Once posted to eBay, images are available to the entire world and can be found by  
8 search engines such as Google, *etc.* See exhibits 100, 145.

9 20. eBay has a policy called "images and text policy" wherein scans from catalogs or  
10 advertisements are not allowed. Scans of magazines would clearly fit into this  
11 policy. A true and correct copy of the images and text policy during the time  
12 period of this case is attached as Exhibit 151.

13 21. I am also aware that such non-removed images have been used as part of the re-  
14 posting/re-listing of my Works.

15 22. When you click on the image in a listing, it opens up to display a very large photo.  
16 This can be seen in almost every listing exhibit attached to this declaration.

17 **eBay's willful refusal to produce relevant documents in this litigation.**

18 23. eBay has failed to produce communications with sellers, including but not limited  
19 to communications about removed listings, warnings about infringing activities,  
20 communications about suspensions/terminations. Such communications are  
21 relevant to when eBay actually removed listings, implementation of DMCA  
22 procedures, including the implementation of 512(i) termination policy. eBay has  
23 only produced about 3-4 post notice communications with sellers in this case. (See  
24 Exhibit 158 for an example)

25 24. eBay has failed to produce its listings in dispute. These could have been useful to  
determine exactly when eBay actually removed listings.

26 25. eBay has failed to produce logs related to views of the listings. It is clear from the

eBay Exhibit B spreadsheet that eBay has such underlying logs/data or it would not have been able to list such info in the spreadsheet. (See also Declaration of David Sterling.)

26. eBay has represented in supplemental discovery responses that it has no image logs. This is likely not true as eBay would need these logs for their operations troubleshooting of operational issues. (See Declaration of David Sterling.)

27. eBay has failed to produce all 512(i) logs or other notes on actions [REDACTED] on actions taken against sellers including warnings, suspensions and terminations. Instead eBay has only produced selected excerpts as eBay Exhibit A. As many of the sellers have been on eBay for years and have received other notifications prior to the period in questions, all of the records on each seller are relevant to how eBay has and continues to implement its termination policies.

28. I propounded discovery on eBay about the Works that were seen on Worthpoint as the Works had clearly been sold or they would not have been seen on Worthpoint. eBay has failed to produce any documents related to those listings.

29. I propounded discovery on eBay about all documents related to financial transactions for items/listings in the case. eBay has failed to produce any such docs but did produce the eBay Exhibit B spreadsheet, which clearly shows that eBay has such documents from which it created the spreadsheet.

30. eBay has failed to produce documents from the relevant time period (September – December 2013) to show that it was in compliance with its obligations under Section 512(c)(2).

31. eBay has failed to produce any documents to show that the Works were subject to either of the provisions of “First Sale Doctrine” (109(a), 109(c))

eBay [REDACTED] from the infringing conduct

32. While eBay has not produced all documents, eBay has produced a spreadsheet demonstrating that [REDACTED]

1 [REDACTED] (See Exhibit B to eBay's Supplemental Responses to Special  
2 Interrogatories, Exhibit 2 to Dion-Kindem declaration.) [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 33. I propounded discovery on eBay about the Works on Worthpoint, which had  
7 clearly been sold on eBay.com. eBay failed to produce any documents as they  
8 would show that eBay profited from the listings.

9 34. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 35. eBay has a direct financial interest in the sale of copyrighted works through its  
13 website. The ability to buy and sell infringing works acts as a draw for customers  
14 and eBay earns a percentage on each transaction along with insertion fees, image  
15 hosting fees, PayPal fees and advertising fees.

### 16 **Chart Summarizing Infringements in Dispute**

17 36. Attached hereto as Exhibit 176 is a chart reflecting my various copyrighted works  
18 and the infringements in dispute, including when NOCI's were sent to eBay,  
19 whether eBay took any action, when eBay took action or is believed to have taken  
20 action based on eBay's representations, and other material information. Much of  
21 the information regarding eBay's removals comes from Exhibit B to eBay's  
22 Supplemental Responses to Interrogatories and is not accurate with respect to the  
23 actual removal dates. eBay has not produced any of the underlying documents or  
24 other documents to demonstrate when listings or images were actually removed.  
The other information is true and correct based on my personal knowledge and  
review of the documents produced by eBay, my documents, and the deposition

1 testimony of eBay's witnesses in this case. The details of the infringements are  
 2 described in detail below, organized by Work as reflected in the Exhibit attached to  
 3 the Second Amended Complaint.

4 **Work 1: Anna Kournikova: VA 1-239-766: Anna Kournikova 2**

5 **grand130 infringement**

37. On or about September 5, 2013, I discovered that a seller by the name of  
 6 "grand130" had posted an unauthorized copy of an 8x10 photo print utilizing of  
 7 one of my Anna Kournikova photographs (Work 1) for sale on eBay.com (eBay  
 8 Listing No. 121165387241) and had also made and posted an unauthorized  
 9 copy(ies) of said print. I reported the infringements to eBay and the listing was  
 10 removed. True and correct copies of the infringement(s) as they existed on  
 11 eBay.com on September 5, 2013 are attached hereto as Exhibit 115.

12 38.   
 13   
 14 

15 **nyc3870 infringement**

39. On or about November 24, 2013, I discovered that a seller by the name of  
 16 "nyc3870" had posted an unauthorized copy of an 8x10 photo print utilizing of one  
 17 of my Anna Kournikova photographs (Work 1) for sale on eBay.com (eBay Listing  
 18 No. 261337891570) and had also made and posted an unauthorized copy(ies) of  
 19 said print. I reported the infringements to eBay and the listing was removed. True  
 20 and correct copies of the infringement(s) as they existed on eBay.com on  
 21 November 24, 2013 are attached hereto as Exhibit 116. A copy of the Jpeg image  
 22 file as it existed on eBay image servers on November 24, 2013 is attached hereto  
 23 as Exhibit 117.  
 24

**Work 2: Chase Masterson: VAu970-587: Chase Masterson****bswitco infringement**

40. On or about September 8, 2013, I discovered that a seller by the name of “bswitco” had posted an unauthorized copy of an 8x10 photo print of one of my Chase Masterson photographs (Work 2) for sale on eBay.com (eBay Listing No. 200961214147) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on September 8, 2013 are attached hereto as Exhibit 107.

41. On or about December 2, 2013, I discovered that a seller by the name of “bswitco” had again willfully reposted an unauthorized copy of an 8x10 photo print of one of my Chase Masterson photographs (Work 2) for sale on eBay.com (eBay Listing No. 190988357746) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringement to eBay and the listing was removed. True and correct copies of the notice and infringement(s) as they existed on eBay.com on December 2, 2013 are attached hereto as Exhibits 108 and 109 and of the Jpeg image file as it existed on eBay image servers on December 2, 2013 is attached hereto as Exhibit 110.

42. The last known date that the image url/link remained active and available was December 13, 2013. A true and correct copy of the image as it was still active on eBay’s servers on December 13, 2013 is attached hereto as Exhibit 111.

43. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**vintage81 infringement**

44. On or about December 2, 2013, I discovered that a seller by the name of “vintage81” had posted an unauthorized copy of an 8x10 photo print of one of my

Chase Masterson photographs (Work 2) for sale on eBay.com (eBay Listing No. 281219067794) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on December 2, 2013 are attached hereto as Exhibit 112 and of the Jpeg image file as it existed on eBay image servers on December 2, 2013 is attached hereto as Exhibit 113.

45. A true and correct copy of the image as it was still active on eBay's servers on December 13, 2013 is attached hereto as Exhibit 114.

**Work 3: Natalia Sokolova: VA 1-230-923: Published Works 2002 Pt 1**

**Stass22 infringement**

46. On or about September 4, 2013, I discovered that a seller by the name of "stass22" had made and posted an unauthorized copy of one of my Natalia Sokolova Photographs (Work 3) on eBay.com (eBay Listing No. number 370888774348). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 58 and 59.
47. On or about September 11 (eBay Listing No. 370895732017), October 14 (eBay Listing No. 370917866083), October 24 (eBay Listing No. 370924995305), November 3 (eBay Listing No. 370933304565), November 13 (eBay Listing No. 370940363068), November 22 (eBay Listing No. 370948288111), December 2 (eBay Listing No. 370955586631) and December 11 (eBay Listing No. 370962368634), 2013, I discovered that a seller by the name of "stass22" had again posted an auction on eBay.com with the same unauthorized copy of one of my Natalia Sokolova photographs (Work 3) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the infringements, except the September 11 listing (eBay Listing No. 370895732017). True and correct copies of the most recent infringement(s) as they existed on

eBay.com on December 11, 2013 are attached hereto as Exhibit 60.

48. The September 11 (eBay Listing No. 370895732017) 2013 listing was initially removed in response to my September 11 notification, but was subsequently deliberately reposted by eBay itself. True and correct copies of the September 11 (eBay Listing No. 370895732017) 2013 listing showing that it was not available on September 23, 2013 and as the reposting existed on eBay.com on November 20, 2013 are attached hereto as Exhibits 61, 62 and 63.

49. The last known date that the September 4 (eBay Listing No. 370888774348), October 14 (eBay Listing No. 370917866083), October 24 (eBay Listing No. 370924995305), November 3 (eBay Listing No. 370933304565), November 13 (eBay Listing No. 370940363068) listings remained active and available was November 20, 2013. The November 22 (eBay Listing No. 370948288111) and December 2 (eBay Listing No. 370955586631) listings were last known to be active on December 13, 2013. True and correct copies of the September 4 and November 22 listings as they existed on eBay.com on November 20, December 13 are attached hereto as Exhibits 64 and 65.

50. The December 9 (eBay Listing No. 370957582082) was last known to be active on December 20, 2013. It is unknown when eBay finally removed the December 11 (eBay Listing No. 370962368634) or all of the listings as it has failed to produce such documents in discovery.

**luki kulka infringements**

51. On or about September 13, 2013, I discovered that a seller by the name of “luki\_kulka” had made and posted an unauthorized copy of one of my Natalia Sokolova photographs (Work 3) on eBay.com (eBay Listing No. 350874891067). I reported the infringement to eBay and it removed the listing, but did not do so expeditiously. It is unknown exactly when eBay finally removed the listing as it has failed to produce such documents in discovery in this case. True and correct

1 copies of the infringement(s) as they existed on eBay.com on September 13, 2013  
2 are attached hereto as Exhibit 66.

3 52. On or about February 17, 2014, I discovered that a seller by the name of  
4 “luki\_kulka” had again made and posted an unauthorized copy of one of my  
5 Joanna Krupa (Work 3) photographs on eBay.com (eBay Listing No.  
6 351002796575) after this lawsuit was filed. True and correct copies of the notice  
7 and infringement(s) as they existed on eBay.com on February 17, 2014 are  
8 attached hereto as Exhibit 67.

**kasiaemilia1 infringement**

9 53. On or about September 4, 2013, I discovered that a seller by the name of  
10 “kasiaemilia1” had made and posted an unauthorized copy of one of my Natalia  
11 Sokolova photographs (Work 3) on eBay.com (eBay Listing No. 290969872836). I  
12 reported the infringement to eBay, but it failed to remove the infringement. True  
13 and correct copies of the notice and infringement(s) as they existed on eBay.com  
14 on September 4, 2013 are attached hereto as Exhibits 68 and 69.

15 54. On or about September 8, 2013 (eBay Listing No. 290973472797), September 14,  
16 2013 (eBay Listing No. 290977784427), September 23, 2013 (eBay Listing No.  
17 290982319241), October 1, 2013 (eBay Listing No. 290987012062), October 7,  
18 2013 (eBay Listing No. 290991089101), October 14, 2013 (eBay Listing No.  
19 290993511233), October 19, 2013 (eBay Listing No. 290997408595), October 24,  
20 2013 (eBay Listing No. 291002131018), October 31, 2013 (eBay Listing No.  
21 291006862414), November 8, 2013 (eBay Listing No. 291010799137), November  
22 13, 2013 (eBay Listing No. 291016057083), November 20, 2013 (eBay Listing  
23 No. 291021159985), November 28, 2013 (eBay Listing No. 291026379897),  
24 December 9, 2013 (eBay Listing No. 291033831397) and December 16, 2013  
(eBay Listing No. 291038568540), I discovered that a seller by the name of  
“kasiaemilia1” had again posted an auction on eBay.com with the same

1 unauthorized copy of one of my Natalia Sokolova photographs (Work 3) as was in  
 2 the September 4, 2013 auction. I reported the infringements to eBay, but it failed to  
 3 remove the infringements.

4 55. The last known date that the September 4 (eBay Listing No. 290969872836),  
 5 September 8 (eBay Listing No. 290973472797), September 14 (eBay Listing No.  
 6 290977784427), September 23 (eBay Listing No. 290982319241), October 1  
 7 (eBay Listing No. 290987012062), October 7 (eBay Listing No. 290991089101),  
 8 October 14 (eBay Listing No. 290993511233), October 19 (eBay Listing No.  
 9 290997408595), October 24 (eBay Listing No. 291002131018), October 31 (eBay  
 10 Listing No. 291006862414), November 8 (eBay Listing No. 291010799137),  
 11 November 13 (eBay Listing No. 291016057083) listings remained active and  
 12 available was November 20, 2013.

13 56. The November 20 (eBay Listing No. 291021159985) and November 28 (eBay  
 14 Listing No. 291026379897) listings were last known to be active on December 13,  
 15 2013.

16 57. True and correct copies of September 4 and November 28 listings as they existed  
 17 on eBay.com on November 20, December 13 are attached hereto as Exhibits 70  
 18 and 71.

19 58. It is unknown when eBay finally removed the December 16 (eBay Listing No.  
 20 291038568540) and all of the listings as it has failed to produce such documents in  
 21 discovery.

22 59. [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED]  
 [REDACTED]

**Work 4: Natalia Sokolova: VA 1-230-923: Published Works 2002 Pt 1**

**luki kulka infringement**

60. On or about September 13, 2013, I discovered that a seller by the name of “luki\_kulka” had made and posted an unauthorized copy of one of my Natalia Sokolova photographs (Work 4) on eBay.com (eBay Listing No. 350874891067). I reported the infringement to eBay and it removed the listing. It is unknown exactly when eBay finally removed the listing as it has failed to produce such documents in discovery in this case. True and correct copies of the infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibit 66.

61. On or about February 17, 2014, I discovered that a seller by the name of “luki\_kulka” had again made and posted an unauthorized copy of one of my Natalia Sokolova photographs (Work 4) on eBay.com (eBay Listing No. 351002796575) after this lawsuit was filed. True and correct copies of the notice and infringement(s) as they existed on eBay.com on February 17, 2014 are attached hereto as Exhibit 67.

**Work 5: Natalia Sokolova: VA 1-230-923: Published Works 2002 Pt 1**

***luki kulka infringement***

62. On or about September 13, 2013, I discovered that a seller by the name of “luki\_kulka” had made and posted an unauthorized copy of one of my Natalia Sokolova photographs (Work 5) on eBay.com (eBay Listing No. 350874891067). I reported the infringement to eBay and it removed the listing. It is unknown exactly when eBay finally removed the listing as it has failed to produce such documents in discovery in this case. True and correct copies of the infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibit 66.

63. On or about February 17, 2014, I discovered that a seller by the name of “luki\_kulka” had again made and posted an unauthorized copy of one of my Natalia Sokolova photographs (Work 5) on eBay.com (eBay Listing No. number 351002796575) after this lawsuit was filed. True and correct copies of the notice and infringement(s) as they existed on eBay.com on February 17, 2014 are

1 attached hereto as Exhibit 67.

2 **Work 6: Joanna Krupa: VA 1-230-935: Published Works 2001 Pt 1**

3 **luki kulka infringement**

- 4 64. On or about September 4, 2013, I discovered that a seller by the name of  
5 “luki\_kulka or luk\_kulka” had made and posted an unauthorized copy of one of my  
6 Joanna Krupa photographs (Work 6) on eBay.com (eBay Listing No.  
7 350868151643). I reported the infringement to eBay, but it failed to remove the  
8 infringements. True and correct copies of the notice and infringement(s) as they  
9 existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 17 and  
10 18.
- 11 65. On or about September 13, 2013 I discovered that a seller by the name of  
12 “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com (eBay Listing  
13 No. 350874891072) with the same unauthorized copy of one of my Joanna Krupa  
14 photographs (Work 6) as was in the September 4, 2013 auction. I reported the  
15 infringements to eBay, but it failed to expeditiously remove the infringements.  
16 True and correct copies of the notice and infringement(s) as they existed on  
17 eBay.com on September 13, 2013 are attached hereto as Exhibits 19 and 20.
- 18 66. On or about September 15, 2013 (eBay Listing No. 350876008113), October 1,  
19 2013 (eBay Listing No. 350887872004), October 14, 2013 (eBay Listing No.  
20 350898977687), October 29, 2013 (eBay Listing No. 35091146019), November  
21 13, 2013 (eBay Listing No. 350923730134) and December 9, 2013 (eBay Listing  
22 No. 350949411898) 2013, I discovered that a seller by the name of “luki\_kulka or  
23 luk\_kulka” had again posted an auction on eBay.com with the same unauthorized  
24 copy of one of my Joanna Krupa photographs (Work 6) as was in the September 4,  
2013 auction. I reported the infringements to eBay, but it consistently failed to  
remove the infringements.
67. The last known date that the September 4 (eBay Listing No. 350868151643),

September 15 (eBay Listing No. 350876008113), October 1 (eBay Listing No. 350887872004), October 14 (eBay Listing No. 350898977687), October 29 (eBay Listing No. 35091146019), November 13 (eBay Listing No. 350923730134) listings remained active and available was November 20, 2013. The December 9 (eBay Listing No. 350949411898) listing was last known to be active on December 20, 2013.

68. It is unknown when eBay finally removed the listings as it has failed to produce such documents in discovery.

69. eBay did at some point remove the image(s) from the December 9 (eBay Listing No. 350949411898) listing. A true and correct copy of the September 4 listing on November 20, 2013 and the December 9 without the images on December 20, 2013 is attached hereto as Exhibits 21 and 22.

**kasiaemilia1 infringements**

70. On or about September 4, 2013, I discovered that a seller by the name of “kasiaemilia1” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 6) on eBay.com (eBay Listing No. 290969661235). I reported the infringement to eBay and it removed the listing. It is unknown exactly when eBay finally removed the listing as it has failed to produce such documents in discovery in this case. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 23 and 24.

71. On or about September 8, 2013 (eBay Listing No. 290972864370), September 13, 2013 (eBay Listing No. 290977126957), September 23, 2013 (eBay Listing No. 290993511234), October 14, 2013 (eBay Listing No. 291002126570), October 17, 2013 (eBay Listing No. 290997406764), October 24, 2013 (eBay Listing No. 291002126570), October 31, 2013 (eBay Listing No. 291006854769), November 8, 2013 (eBay Listing No. 291010795678), November 13, 2013 (eBay Listing No.

291016052293), November 20, 2013 (eBay Listing No. 291021156614), November 28, 2013 (eBay Listing No. 291026380043), December 9, 2013 (eBay Listing No. 291033829454), and December 16, 2013 (eBay Listing No. 291038564409), I discovered that a seller by the name of “kasiamilia1” had again posted an auction on eBay.com with the same unauthorized copy of one of my Joanna Krupa photographs (Work 6) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the listings except the September 13 (eBay Listing No. 290977126957). True and correct copies of the December 9, 2013 infringement(s) and as it existed on eBay.com on December 20 with the images removed attached hereto as Exhibits 25 and 26.

72. The September 13, 2013 (eBay Listing No. 290977126957) listing was initially removed in response to my September 13 notification, but was subsequently deliberately reposted by eBay itself on October 9, 2013. (See eBay Exhibit A, Exhibit 1 to Dion-Kindem Declaration.) True and correct copies of the September 13 (eBay Listing No. 290977126957) 2013 listing showing that it was not available on September 23 and as the reposting existed on eBay.com on November 20, 2013 are attached hereto as Exhibits 27 and 28.

73. The last known date that the September 23 (eBay Listing No. 290993511234), October 14 (eBay Listing No. 291002126570), October 17 (eBay Listing No. 290997406764), October 24 (eBay Listing No. 291002126570), October 31 (eBay Listing No. 291006854769), November 8 (eBay Listing No. 291010795678), listings remained active and available was November 20, 2013. The November 20 (eBay Listing No. 291021156614), November 28 (eBay Listing No. 291026380043) listings was last known to be active on December 13, 2013 and the December 9 (eBay Listing No. 291033829454) was last known to be active on December 20, 2013.

74. True and correct copies of the September 23, November 20 and December 9

1 listings as they existed on eBay.com on November 20, December 13 and  
 2 December 20, 2013 are attached hereto as Exhibits 29, 30 and 31.

3 **stass22 infringements**

- 4 75. On or about September 4, 2013, I discovered that a seller by the name of “stass22”  
 5 had made and posted an unauthorized copy of one of my Joanna Krupa  
 6 photographs (Work 6) on eBay.com (eBay Listing No. 370885283479). I reported  
 7 the infringements to eBay and it removed and then reposted the infringing listings.  
 8 True and correct copies of the notice and infringement(s) as they existed on  
 9 eBay.com on September 4, 2013, the listing showing removed on September 23  
 10 and the active listing on November 20 are attached hereto as Exhibits 32, 33, 34  
 11 and 35.
- 12 76. On or about September 5, 2013 (eBay Listing No. 370891803007), September 8,  
 13 2013 (eBay Listing No. 370893557558), September 18, 2013 (eBay Listing No.  
 14 370900915949), October 1, 2013 (eBay Listing No. 370909006727), October 14,  
 15 2013 (eBay Listing No. 370917770610), October 29, 2013 (eBay Listing No.  
 16 370926685809), November 3, 2013 (eBay Listing No. 370934630597), November  
 17 13, 2013 (eBay Listing No. 370942330920), November 24, 2013 (eBay Listing  
 18 No. 370949867363), December 9, 2013 (eBay Listing No. 370957582082) and  
 19 December 14, 2013 (eBay Listing No. 370964524900), I discovered that a seller by  
 20 the name of “stass22” had again posted an auction on eBay.com with the same  
 21 unauthorized copy of one of my Joanna Krupa photographs(Work 6) as was in the  
 22 September 4, 2013 auction. I reported the infringements to eBay, but it failed to  
 23 remove the listings, except the September 5 listing (eBay Listing No.  
 24 370891803007). True and correct copies of the most recent infringement(s) as they  
 existed on eBay.com on December 14, 2013 are attached hereto as Exhibit 36.
77. The September 5 (eBay Listing No. 370891803007) 2013 listing was initially  
 removed in response to my September 5 notification, [REDACTED]

1 [REDACTED]  
 2 [REDACTED] True and correct copies of the September  
 3 5, 2013 (eBay Listing No. 370891803007) listing showing that it was not available  
 4 on September 23 and as the re-posting existed on eBay.com on November 20, 2013  
 5 are attached hereto as Exhibits 37, 38 and 39.

6 78. The last known date that the September 8 (eBay Listing No. 370893557558),  
 7 September 18 (eBay Listing No. 370900915949), October 1 (eBay Listing No.  
 8 370909006727), October 14 (eBay Listing No. 370917770610), October 29 (eBay  
 9 Listing No. 370926685809), November 3 (eBay Listing No. 370934630597),  
 10 November 13 (eBay Listing No. 370942330920) listings remained active and  
 11 available was November 20, 2013.

12 79. The November 24 (eBay Listing No. 370949867363) listings was last known to be  
 13 active on December 13, 2013 and the December 9 (eBay Listing No.  
 14 370957582082) was last known to be active on December 20, 2013. It is unknown  
 15 when eBay finally removed the December 14 (eBay Listing No. 370964524900)  
 16 and all of the listings as it has failed to produce such documents in discovery.

17 80. True and correct copies of the September 8, November 24 listings as they existed  
 18 on eBay.com on November 20, December 13 and the December 9 listing as it  
 19 existed on December 20, 2013 with images removed are attached hereto as  
 20 Exhibits 40, 41, and 42.

21 **kupiecki2 infringements**

22 81. On or about September 4, 2013, I discovered that a seller by the name of  
 23 "kupiecki2" had made and posted an unauthorized copy of one of my Joanna  
 24 Krupa photographs (Work 6) on eBay.com (eBay Listing Nos. 310729966575 and  
 310728991850). I reported the infringement(s) to eBay, but it failed to remove the  
 infringement(s). True and correct copies of the notice and infringement(s)  
 (310729966575) as they existed on eBay.com on September 4, 2013 are attached

1 hereto as Exhibits 43, 44 and 45.

2 82. On or about September 5, 2013 (eBay Listing No. 310738856689), September 8  
3 2013 (eBay Listing No. 310739897595), September 23 2013 (eBay Listing No.  
4 310752406472), I discovered that a seller by the name of “kupiecki2” had again  
5 posted an auction on eBay.com with the same unauthorized copy of one of my  
6 Joanna Krupa photographs (Work 6) as was in the September 4, 2013 auction(s). I  
7 reported the infringements to eBay, but it failed to remove the listings, except the  
8 September 5 listing.

9 83. The last known date that the September 4 (eBay Listing No. 310729966575  
10 310728991850), September 8 (eBay Listing No. 310739897595), September 23  
11 (eBay Listing No. 310752406472), 2013 listings remained active and available was  
12 November 20, 2013. True and correct copies of the September 4 listings as they  
13 existed on eBay.com on November 20 are attached hereto as Exhibits 47 and 48.

14 84. It is unknown when eBay finally removed the all of the listings as it has failed to  
15 produce such documents in discovery.

16 **archivist Infringement**

17 85. On or about September 4, 2013, I discovered that a seller by the name of  
18 “archivist” had made and posted an unauthorized copy of one of my Joanna Krupa  
19 photographs (Work 6) on eBay.com (eBay Listing No. 310732455430). I reported  
20 the infringement(s) to eBay, but it failed to remove the infringement(s). It is  
21 unknown when eBay finally removed the listing as it has failed to produce such  
22 documents in discovery, but it was still known to be active on November 20, 2013.  
23 True and correct copies of the notice and infringement(s) as they existed on  
24 eBay.com on September 4, 2013 and on November 20, 2013 are attached hereto as  
Exhibits 49, 50 and 51.

86. [REDACTED]

[REDACTED]

1 [REDACTED]

2 *menofwood infringements*

3 87. On or about November 28, 2013, I discovered that a seller by the name of  
4 “menofwood” had made and posted an unauthorized copy of one of my Joanna  
5 Krupa photographs (Work 6) on eBay.com (eBay Listing No. 400615627314). I  
6 reported the infringement to eBay, but it failed to remove the infringement. True  
7 and correct copies of the notice and infringement(s) as they existed on eBay.com  
8 on November 28, 2013 are attached hereto as Exhibits 52 and 53.

9 88. On or about December 9, 2013 (eBay Listing No. 400620458209) and December  
10 14, 2013 (eBay Listing No. 400626202206) 2013, I discovered that a seller by the  
11 name of “menofwood” had again posted an auction on eBay.com with the same  
12 unauthorized copy of one of my Joanna Krupa photographs (Work 6) as was in the  
13 November 28, 2013 auction. I reported the infringements to eBay, but it  
14 consistently failed to remove the infringements.

15 89. The last known date that the November 28 (eBay Listing No. 400615627314) and  
16 December 9 (eBay Listing No. 400620458209) listings remained active and  
17 available was December 20, 2013. A true and correct copy of the November 28  
18 and December 9 listings as they existed December 20, 2013 on are attached hereto  
19 as Exhibits 54 and 55.

20 90. It is unknown when eBay finally removed all the listings including the December  
21 14 (eBay Listing No. 400626202206) 2013 listing as it has failed to produce such  
22 documents in discovery.

23 91. [REDACTED]  
24 [REDACTED]  
[REDACTED]

**Work 7: Joanna Krupa: VA 1-230-935: Published Works 2001 Pt 1****luki kulka infringements**

92. On or about September 4, 2013, I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 7) on eBay.com (eBay Listing No. 350868151643). I reported the infringement to eBay, but it failed to remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 17 and 18.

93. On or about September 13, 2013 I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com (eBay Listing No. 350874891072) with the same unauthorized copy of one of my Joanna Krupa photographs (Work 7) as was in the September 4, 2013 auction. I reported the infringements to eBay. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibits 19 and 20.

94. The last known date that the September 4, 2013 (eBay Listing No. 350868151643), listing remained active and available was November 20, 2013. A true and correct copy of the September 4 listing on November 20, 2013 is attached hereto as Exhibit 21. It is unknown when eBay finally removed the listing as it has failed to produce such documents in discovery.

**kasiaemilia1 infringements**

95. On or about September 4, 2013, I discovered that a seller by the name of “kasiaemilia1” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 7) on eBay.com (eBay Listing No. 290969661235). I reported the infringement to eBay and it removed the listing. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September

4, 2013 are attached hereto as Exhibits 23 and 24.

96. On or about September 8, 2013 (eBay Listing No. 290972864370), September 13, 2013 (eBay Listing No. 290977126957), September 23, 2013 (eBay Listing No. 290993511234), October 14, 2013 (eBay Listing No. 291002126570), October 17, 2013 (eBay Listing No. 290997406764), October 24, 2013 (eBay Listing No. 291002126570), October 31, 2013 (eBay Listing No. 291006854769), November 8, 2013 (eBay Listing No. 291010795678), November 13, 2013 (eBay Listing No. 291016052293), November 20, 2013 (eBay Listing No. 291021156614), November 28, 2013 (eBay Listing No. 291026380043), December 9, 2013 (eBay Listing No. 291033829454), and December 16, 2013 (eBay Listing No. 291038564409), I discovered that a seller by the name of “kasiaemilia1” had again posted an auction on eBay.com with the same unauthorized copy of one of my Joanna Krupa photographs (Work 7) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the infringements except the September 13 (eBay Listing No. 290977126957). True and correct copies of the December 9, 2013 infringement(s) and as it existed on eBay.com on December 20 with the images removed attached hereto as Exhibits 25 and 26.

97. The September 13, 2013 (eBay Listing No. 290977126957) listing was initially removed in response to my September 13 notification, but was subsequently deliberately reposted by eBay itself on October 9 (See eBay Exhibit A, Exhibit 1 to Dion-Kindem Declaration.) True and correct copies of the September 13, 2013 (eBay Listing No. 290977126957) listing showing that it was not available on September 23 and as the re-posting existed on eBay.com on November 20, 2013 are attached hereto as Exhibits 27 and 28.

98. The last known date that the September 23 (eBay Listing No. 290993511234), October 14 (eBay Listing No. 291002126570), October 17 (eBay Listing No. 290997406764), October 24 (eBay Listing No. 291002126570), October 31 (eBay

Listing No. 291006854769), November 8 (eBay Listing No. 291010795678), listings remained active and available was November 20, 2013. The November 20 (eBay Listing No. 291021156614), November 28 (eBay Listing No. 291026380043) listings was last known to be active on December 13, 2013 and the December 9 (eBay Listing No. 291033829454) was last known to be active on December 20, 2013. True and correct copies of the September 23, November 20 and December 9 listings as they existed on eBay.com on November 20, December 13 and December 20, 2013 are attached hereto as Exhibits 29, 30 and 31.

99. It is unknown when eBay finally removed the listings as it has failed to produce such documents in discovery.

**menofwood infringements**

100. On or about November 28, 2013, I discovered that a seller by the name of “menofwood” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 7) on eBay.com (eBay Listing No. 400615627314). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on November 28, 2013 are attached hereto as Exhibits 52 and 53.

101. On or about December 9, 2013 (eBay Listing No. 400620458209) and December 14, 2013 (eBay Listing No. 400626202206) 2013, I discovered that a seller by the name of “menofwood” had again posted an auction on eBay.com with the same unauthorized copy of one of my Joanna Krupa photographs (Work 7) as was in the November 28, 2013 auction. I reported the infringements to eBay, but it consistently failed to remove the infringements.

102. The last known date that the November 28 (eBay Listing No. 400615627314) and December 9 (eBay Listing No. 400620458209) listings remained active and available was December 20, 2013. A true and correct copy of the November 28 and December 9 listings as they existed December 20, 2013 on are attached hereto

as Exhibits 54 and 55.

103. It is unknown when eBay finally removed all the listings including the December 14 (eBay Listing No. 400626202206) 2013 listing as it has failed to produce such documents in discovery.

**Work 8: Joanna Krupa: VA 1-230-935: Published Works 2001 Pt 1**

**luki kulka infringements**

104. On or about September 4, 2013, I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 8) on eBay.com (eBay Listing No. 350868151643). I reported the infringement to eBay, but it failed to remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 17 and 18.

105. On or about September 13, 2013 I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com (eBay Listing No. 350874891072) with the same unauthorized copy of one of my Joanna Krupa photographs (Work 8) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to expeditiously remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibits 19 and 20.

106. On or about September 15, 2013 (eBay Listing No. 350876008113), October 1, 2013 (eBay Listing No. 350887872004), October 14, 2013 (eBay Listing No. 350898977687), October 29, 2013 (eBay Listing No. 35091146019), November 13, 2013 (eBay Listing No. 350923730134) and December 9, 2013 (eBay Listing No. 350949411898), I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com with the same unauthorized copy of one of my Joanna Krupa photographs (Work 6) as was in the September 4,

1 2013 auction. I reported the infringements to eBay, but it consistently failed to  
2 remove the infringements.

3 107. The last known date that the September 4 (eBay Listing No. 350868151643),  
4 September 15 (eBay Listing No. 350876008113), October 1 (eBay Listing No.  
5 350887872004), October 14 (eBay Listing No. 350898977687), October 29 (eBay  
6 Listing No. 35091146019), November 13 (eBay Listing No. 350923730134)  
7 listings remained active and available was November 20, 2013. The December 9  
8 (eBay Listing No. 350949411898) listing was last known to be active on December  
20, 2013.

9 108. It should be noted that eBay did at some point remove the image(s) from the  
10 December 9 (eBay Listing No. 350949411898) listing. A true and correct copy of  
11 the September 4 listing on November 20, 2013 and the December 9 without the  
12 images on December 20, 2013 is attached hereto as Exhibits 21 and 22.

13 109. It is unknown when eBay finally removed all of the listings as it has failed to  
14 produce such documents in discovery.

**stass22 infringements**

15 110. On or about September 4, 2013, I discovered that a seller by the name of “stass22”  
16 had made and posted an unauthorized copy of one of my Joanna Krupa  
17 photographs (Work 8) on eBay.com (eBay Listing No. 370885283479). I reported  
18 the infringements to eBay and it removed the listing, but the re-posted the  
19 infringing listing. True and correct copies of the notice and infringement(s) as they  
20 existed on eBay.com on September 4, 2013, the listing showing removed on  
21 September 23 and the active listing on November 20 are attached hereto as  
Exhibits 32, 33, 34 and 35.

22 111. On or about September 5, 2013 (eBay Listing No. 370891803007), September 8,  
23 2013 (eBay Listing No. 370893557558), September 18, 2013 (eBay Listing No.  
24 370900915949), October 1, 2013 (eBay Listing No. 370909006727), October 14,

2013 (eBay Listing No. 370917770610), October 29, 2013 (eBay Listing No. 370926685809), November 3, 2013 (eBay Listing No. 370934630597), November 13, 2013 (eBay Listing No. 370942330920), November 24, 2013 (eBay Listing No. 370949867363), December 9, 2013 (eBay Listing No. 370957582082) and December 14, 2013 (eBay Listing No. 370964524900), I discovered that a seller by the name of “stass22” had again posted an auction on eBay.com with the same unauthorized copy of one of my Joanna Krupa photographs (Work 8) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the listings, except the September 5 listing (eBay Listing No. 370891803007). True and correct copies of the most recent infringement(s) as they existed on eBay.com on December 14, 2013 are attached hereto as Exhibit 36.

112. The September 5, 2013 (eBay Listing No. 370891803007) listing was initially removed in response to my September 5 notification, but was subsequently deliberately re-posted by eBay itself on October 11, 2013. (See eBay Exhibit A, Exhibit 1 to Dion-Kindem Declaration.) True and correct copies of the September 5 (eBay Listing No. 370891803007) 2013 listing showing that it was not available on September 23 and as the re-posting existed on eBay.com on November 20, 2013 are attached hereto as Exhibits 37, 38 and 39.

113. The last known date that the September 8 (eBay Listing No. 370893557558), September 18 (eBay Listing No. 370900915949), October 1 (eBay Listing No. 370909006727), October 14 (eBay Listing No. 370917770610), October 29 (eBay Listing No. 370926685809), November 3 (eBay Listing No. 370934630597), November 13 (eBay Listing No. 370942330920) listings remained active and available was November 20, 2013. The November 24 (eBay Listing No. 370949867363) listings was last known to be active on December 13, 2013 and the December 9 (eBay Listing No. 370957582082) was last known to be active on December 20, 2013. True and correct copies of the September 8, November 24

1 listings as they existed on eBay.com on November 20, December 13 and the  
 2 December 9 listing as it existed on December 20, 2013 with images removed are  
 3 attached hereto as Exhibits 40, 41, and 42.

4 114. It is unknown when eBay finally removed the December 14 (eBay Listing No.  
 5 370964524900) and all of the listings as it has failed to produce such documents in  
 6 discovery.

**menofwood infringements**

7 115. On or about November 28, 2013, I discovered that a seller by the name of  
 8 “menofwood” had made and posted an unauthorized copy of one of my Joanna  
 9 Krupa photographs (Work 8) on eBay.com (eBay Listing No. 400615627314). I  
 10 reported the infringement to eBay, but it failed to remove the infringement. True  
 11 and correct copies of the notice and infringement(s) as they existed on eBay.com  
 12 on November 28, 2013 are attached hereto as Exhibits 52 and 53.

13 116. On or about December 9, 2013 (eBay Listing No. 400620458209) and December  
 14 14, 2013 (eBay Listing No. 400626202206), I discovered that a seller by the name  
 15 of “menofwood” had again posted an auction on eBay.com with the same  
 16 unauthorized copy of one of my Joanna Krupa photographs (Work 8) as was in the  
 17 November 28, 2013 auction. I reported the infringements to eBay, but it  
 18 consistently failed to remove the infringements.

19 117. The last known date that the November 28 (eBay Listing No. 400615627314) and  
 20 December 9 (eBay Listing No. 400620458209) listings remained active and  
 21 available was December 20, 2013. A true and correct copy of the November 28  
 22 and December 9 listings as they existed December 20, 2013 on are attached hereto  
 23 as Exhibits 54 and 55.

24 118. It is unknown when eBay finally removed all the listings including the December  
 14 (eBay Listing No. 400626202206) 2013 listing as it has failed to produce such  
 documents in discovery.

1 119. [REDACTED]  
 2 [REDACTED]  
 3 [REDACTED]

4 **Work 9: Joanna Krupa: VA 1-230-935: Published Works 2001 Pt 1**

5 **luki kulka infringements**

6 120. On or about September 4, 2013, I discovered that a seller by the name of  
 7 “luki\_kulka or luk\_kulka” had made and posted an unauthorized copy of one of my  
 8 Joanna Krupa photographs (Work 9) on eBay.com (eBay Listing No.  
 9 350868151643). I reported the infringement to eBay, but it failed to remove the  
 10 infringements. True and correct copies of the notice and infringement(s) as they  
 11 existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 17 and  
 12 18.

13 121. On or about September 13, 2013 I discovered that a seller by the name of  
 14 “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com (eBay Listing  
 15 No. 350874891072) with the same unauthorized copy of one of my Joanna Krupa  
 16 photographs (Work 9) as was in the September 4, 2013 auction. I reported the  
 17 infringements to eBay, but it failed to expeditiously remove the infringements.  
 18 True and correct copies of the notice and infringement(s) as they existed on  
 19 eBay.com on September 13, 2013 are attached hereto as Exhibits 19 and 20.

20 122. On or about September 15, 2013 (eBay Listing No. 350876008113), October 1,  
 21 2013 (eBay Listing No. 350887872004), October 14, 2013 (eBay Listing No.  
 22 350898977687), October 29, 2013 (eBay Listing No. 35091146019), November  
 23 13, 2013 (eBay Listing No. 350923730134) and December 9, 2013 (eBay Listing  
 24 No. 350949411898), I discovered that a seller by the name of “luki\_kulka or  
 luk\_kulka” had again posted an auction on eBay.com with the same unauthorized  
 copy of one of my Joanna Krupa photographs (Work 6) as was in the September 4,  
 2013 auction. I reported the infringements to eBay, but it consistently failed to

1 remove the infringements.

2 123. The last known date that the September 4 (eBay Listing No. 350868151643),  
 3 September 15 (eBay Listing No. 350876008113), October 1 (eBay Listing No.  
 4 350887872004), October 14 (eBay Listing No. 350898977687), October 29 (eBay  
 5 Listing No. 35091146019), November 13 (eBay Listing No. 350923730134)  
 6 listings remained active and available was November 20, 2013. The December 9  
 7 (eBay Listing No. 350949411898) listing was last known to be active on December  
 8 20, 2013.

9 124. It is unknown when eBay finally removed the listings as it has failed to produce  
 10 such documents in discovery.

11 125. It should be noted that eBay did at some point remove the image(s) from the  
 12 December 9 (eBay Listing No. 350949411898) listing. A true and correct copy of  
 13 the September 4 listing on November 20, 2013 and the December 9 without the  
 14 images on December 20, 2013 is attached hereto as Exhibits 21 and 22.

15 **stass22 infringements**

16 126. On or about September 4, 2013, I discovered that a seller by the name of “stass22”  
 17 had made and posted an unauthorized copy of one of my Joanna Krupa  
 18 photographs (Work 9) on eBay.com (eBay Listing No. 370885283479). I reported  
 19 the infringements to eBay and it removed the listing, but then re-posted the  
 20 infringing listing. True and correct copies of the notice and infringement(s) as they  
 21 existed on eBay.com on September 4, 2013, the listing showing removed on  
 22 September 23 and the active listing on November 20 are attached hereto as  
 23 Exhibits 32, 33, 34 and 35.

24 127. On or about September 5, 2013 (eBay Listing No. 370891803007), September 8,  
 2013 (eBay Listing No. 370893557558), September 18, 2013 (eBay Listing No.  
 370900915949), October 1, 2013 (eBay Listing No. 370909006727), October 14,  
 2013 (eBay Listing No. 370917770610), October 29, 2013 (eBay Listing No.

370926685809), November 3, 2013 (eBay Listing No. 370934630597), November 13, 2013 (eBay Listing No. 370942330920), November 24, 2013 (eBay Listing No. 370949867363), December 9, 2013 (eBay Listing No. 370957582082) and December 14, 2013 (eBay Listing No. 370964524900), I discovered that a seller by the name of “stass22” had again posted an auction on eBay.com with the same unauthorized copy of one of my Joanna Krupa photographs (Work 9) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the infringements, except the September 5 listing (eBay Listing No. 370891803007). True and correct copies of the most recent infringement(s) as they existed on eBay.com on December 14, 2013 are attached hereto as Exhibit 36.

128. The September 5 (eBay Listing No. 370891803007) 2013 listing was initially removed in response to my September 5 notification, but was subsequently deliberately re-posted by eBay itself on October 11 (See eBay Exhibit A). True and correct copies of the September 5 (eBay Listing No. 370891803007) 2013 listing showing that it was not available on September 23 and as the re-posting existed on eBay.com on November 20, 2013 are attached hereto as Exhibits 37, 38 and 39.

129. The last known date that the September 8 (eBay Listing No. 370893557558), September 18 (eBay Listing No. 370900915949), October 1 (eBay Listing No. 370909006727), October 14 (eBay Listing No. 370917770610), October 29 (eBay Listing No. 370926685809), November 3 (eBay Listing No. 370934630597), November 13 (eBay Listing No. 370942330920) listings remained active and available was November 20, 2013. The November 24 (eBay Listing No. 370949867363) listings was last known to be active on December 13, 2013. The December 9 (eBay Listing No. 370957582082) was last known to be active on December 20, 2013. True and correct copies of the September 8, November 24 listings as they existed on eBay.com on November 20, December 13 and the December 9 listing as it existed on December 20, 2013 with images removed are

1 attached hereto as Exhibits 40, 41, and 42.

2 130. It is unknown when eBay finally removed the December 14 (eBay Listing No.  
3 370964524900) and all of the listings as it has failed to produce such documents in  
4 discovery.

5 **menofwood infringements**

6 131. On or about November 28, 2013, I discovered that a seller by the name of  
7 “menofwood” had made and posted an unauthorized copy of one of my Joanna  
8 Krupa photographs (Work 9) on eBay.com (eBay Listing No. 400615627314). I  
9 reported the infringement to eBay, but it failed to remove the infringement. True  
10 and correct copies of the notice and infringement(s) as they existed on eBay.com  
11 on November 28, 2013 are attached hereto as Exhibits 52 and 53.

12 132. On or about December 9, 2013 (eBay Listing No. 400620458209) and December  
13 14, 2013, (eBay Listing No. 400626202206), I discovered that a seller by the name  
14 of “menofwood” had again posted an auction on eBay.com with the same  
15 unauthorized copy of one of my Joanna Krupa photographs (Work 9) as was in the  
16 November 28, 2013 auction. I reported the infringements to eBay, but it  
17 consistently failed to remove the infringements.

18 133. The last known date that the November 28 (eBay Listing No. 400615627314) and  
19 December 9 (eBay Listing No. 400620458209) listings remained active and  
20 available was December 20, 2013. A true and correct copy of the November 28  
21 and December 9 listings as they existed December 20, 2013 on are attached hereto  
22 as Exhibits 54 and 55.

23 134. It is unknown when eBay finally removed all the listings including the December  
24 14 (eBay Listing No. 400626202206) 2013 listing as it has failed to produce such  
documents in discovery.

135. [REDACTED]

[REDACTED]

**Work 10: Joanna Krupa: VA 1-230-935: Published Works 2001 Pt 1****luki kulka infringements**

136. On or about September 4, 2013, I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 10) on eBay.com (eBay Listing No. 350868151643). I reported the infringement to eBay, but it failed to remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 17 and 18.
137. On or about September 13, 2013 I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com (eBay Listing No. 350874891072) with the same unauthorized copy of one of my Joanna Krupa photographs (Work 10) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to expeditiously remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibits 19 and 20.
138. The last known date that the September 4 (eBay Listing No. 350868151643), listing remained active and available was November 20, 2013. A true and correct copy of the September 4 listing on November 20, 2013 is attached hereto as Exhibit 21. It is unknown when eBay finally removed the listing as it has failed to produce such documents in discovery.

**kasiaemilia1 infringements**

139. On or about September 4, 2013, I discovered that a seller by the name of “kasiaemilia1” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 10) on eBay.com (eBay Listing No. 290969661235). I reported the infringement to eBay and it removed the listing, but did not do so

1 expeditiously. True and correct copies of the notice and infringement(s) as they  
 2 existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 23 and  
 3 24.

4 140. On or about September 8, 2013 (eBay Listing No. 290972864370), September 13,  
 5 2013 (eBay Listing No. 290977126957), September 23, 2013 (eBay Listing No.  
 6 290993511234), October 14, 2013 (eBay Listing No. 291002126570), October 17,  
 7 2013 (eBay Listing No. 290997406764), October 24, 2013 (eBay Listing No.  
 8 291002126570), October 31, 2013 (eBay Listing No. 291006854769), November  
 9 8, 2013 (eBay Listing No. 291010795678), November 13, 2013 (eBay Listing No.  
 10 291016052293), November 20, 2013 (eBay Listing No. 291021156614),  
 11 November 28, 2013 (eBay Listing No. 291026380043), December 9, 2013 (eBay  
 12 Listing No. 291033829454), and December 16, 2013 (eBay Listing No.  
 13 291038564409), I discovered that a seller by the name of “kasiaemilia1” had again  
 14 posted an auction on eBay.com with the same unauthorized copy of one of my  
 15 Joanna Krupa photographs(Work 10) as was in the September 4, 2013 auction. I  
 16 reported the infringements to eBay, but it failed to remove the infringements  
 17 except the September 13 listing (eBay Listing No. 290977126957). True and  
 18 correct copies of the December 9, 2013 infringement(s) and as it existed on  
 19 eBay.com on December 20 with the images removed attached hereto as Exhibits  
 20 25 and 26.

21 141. The September 13, 2013 (eBay Listing No. 290977126957) listing was initially  
 22 removed in response to my September 13 notification, but was subsequently  
 23 deliberately re-posted by eBay itself on October 9. (See eBay Exhibit A, Exhibit 1  
 24 to Dion-Kindem Declaration.) True and correct copies of the September 13, 2013  
 (eBay Listing No. 290977126957) listing showing that it was not available on  
 September 23 and as the re-posting existed on eBay.com on November 20, 2013  
 are attached hereto as Exhibits 27 and 28.

1 142. The last known date that the September 23 (eBay Listing No. 290993511234),  
 2 October 14 (eBay Listing No. 291002126570), October 17 (eBay Listing No.  
 3 290997406764), October 24 (eBay Listing No. 291002126570), October 31 (eBay  
 4 Listing No. 291006854769), November 8 (eBay Listing No. 291010795678),  
 5 listings remained active and available was November 20, 2013. The November 20  
 6 (eBay Listing No. 291021156614) and November 28 (eBay Listing No.  
 7 291026380043) listings were last known to be active on December 13, 2013. The  
 8 December 9, 2013 listing (eBay Listing No. 291033829454) was last known to be  
 9 active on December 20, 2013. True and correct copies of the September 23,  
 10 November 20 and December 9 listings as they existed on eBay.com on November  
 11 20, December 13 and December 20, 2013 are attached hereto as Exhibits 29, 30  
 12 and 31.

13 143. It is unknown when eBay finally removed the listings as it has failed to produce  
 14 such documents in discovery.

**menofwood infringements**

15 144. On or about November 28, 2013, I discovered that a seller by the name of  
 16 “menofwood” had made and posted an unauthorized copy of one of my Joanna  
 17 Krupa photographs (Work 10) on eBay.com (eBay Listing No. 400615627314). I  
 18 reported the infringement to eBay, but it failed to remove the infringement. True  
 19 and correct copies of the notice and infringement(s) as they existed on eBay.com  
 20 on November 28, 2013 are attached hereto as Exhibits 52 and 53.

21 145. On or about December 9, 2013 (eBay Listing No. 400620458209) and December  
 22 14, 2013 (eBay Listing No. 400626202206), I discovered that a seller by the name  
 23 of “menofwood” had again posted an auction on eBay.com with the same  
 24 unauthorized copy of one of my Joanna Krupa photographs (Work 10) as was in  
 the November 28, 2013 auction. I reported the infringements to eBay, but it  
 consistently failed to remove the infringements.

146. The last known date that the November 28 (eBay Listing No. 400615627314) and December 9 (eBay Listing No. 400620458209) listings remained active and available was December 20, 2013. A true and correct copy of the November 28 and December 9 listings as they existed December 20, 2013 on are attached hereto as Exhibits 54 and 55.

147. It is unknown when eBay finally removed all the listings including the December 14, 2013 listing (eBay Listing No. 400626202206) listing as it has failed to produce such documents in discovery

148. [REDACTED]

**Work 11: Joanna Krupa: VA 1-230-935: Published Works 2001 Pt 1**

**luki kulka infringements**

149. On or about September 4, 2013, I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 11) on eBay.com (eBay Listing No. 350868151643). I reported the infringement to eBay, but it failed to remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 17 and 18.

150. On or about September 13, 2013 I discovered that a seller by the name of “luki\_kulka or luk\_kulka” had again posted an auction on eBay.com (eBay Listing No. number 350874891072) with the same unauthorized copy of one of my Joanna Krupa photographs (Work 11) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to expeditiously remove the infringements. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibits 19 and 20.

1 151. The last known date that the September 4, 2013 listing (eBay Listing No.  
2 350868151643) remained active and available was November 20, 2013. A true and  
3 correct copy of the September 4 listing on November 20, 2013 is attached hereto as  
4 Exhibit 21.

5 152. It is unknown when eBay finally removed the listing as it has failed to produce  
6 such documents in discovery.

***kasiaemilia1 infringements***

7 153. On or about September 4, 2013, I discovered that a seller by the name of  
8 “kasiaemilia1” had made and posted an unauthorized copy of one of my Joanna  
9 Krupa photographs (Work 11) on eBay.com (eBay Listing No. 290969661235). I  
10 reported the infringement to eBay and it removed the infringement, but did not do  
11 so expeditiously. True and correct copies of the notice and infringement(s) as they  
12 existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 23 and  
24.

13 154. On or about September 8, 2013 (eBay Listing No. 290972864370), September 13,  
14 2013 (eBay Listing No. 290977126957), September 23, 2013 (eBay Listing No.  
15 290993511234), October 14, 2013 (eBay Listing No. 291002126570), October 17,  
16 2013 (eBay Listing No. 290997406764), October 24, 2013 (eBay Listing No.  
17 291002126570), October 31, 2013 (eBay Listing No. 291006854769), November  
18 8, 2013 (eBay Listing No. 291010795678), November 13, 2013 (eBay Listing No.  
19 291016052293), November 20, 2013 (eBay Listing No. 291021156614),  
20 November 28, 2013 (eBay Listing No. 291026380043), December 9, 2013 (eBay  
21 Listing No. 291033829454), and December 16, 2013 (eBay Listing No.  
22 291038564409), I discovered that a seller by the name of “kasiaemilia1” had again  
23 posted an auction on eBay.com with the same unauthorized copy of one of my  
24 Joanna Krupa photographs (Work 11) as was in the September 4, 2013 auction. I  
reported the infringements to eBay, but it failed to remove the infringements

except the September 13 (eBay Listing No. 290977126957). True and correct copies of the December 9, 2013 infringement(s) and as it existed on eBay.com on December 20 with the images removed attached hereto as Exhibits 25 and 26.

155. The September 13 (eBay Listing No. 290977126957) 2013 listing was initially removed in response to my September 13 notification, but was subsequently deliberately re-posted by eBay itself on October 9. (See eBay Exhibit, Exhibit 1 to Dion-Kindem Declaration.) True and correct copies of the September 13, 2013 (eBay Listing No. 290977126957) listing showing that it was not available on September 23 and as the re-posting existed on eBay.com on November 20, 2013 are attached hereto as Exhibits 27 and 28.

156. The last known date that the September 23 (eBay Listing No. 290993511234), October 14 (eBay Listing No. 291002126570), October 17 (eBay Listing No. 290997406764), October 24 (eBay Listing No. 291002126570), October 31 (eBay Listing No. 291006854769), November 8 (eBay Listing No. 291010795678), listings remained active and available was November 20, 2013. The November 20 (eBay Listing No. 291021156614), November 28 (eBay Listing No. 291026380043) listings was last known to be active on December 13, 2013, and the December 9 (eBay Listing No. 291033829454) was last known to be active on December 20, 2013. True and correct copies of the September 23, November 20 and December 9 listings as they existed on eBay.com on November 20, December 13 and December 20, 2013 are attached hereto as Exhibits 29, 30 and 31.

157. It is unknown when eBay finally removed the listings as it has failed to produce such documents in discovery

**menofwood infringements**

158. On or about November 28, 2013, I discovered that a seller by the name of “menofwood” had made and posted an unauthorized copy of one of my Joanna Krupa photographs (Work 11) on eBay.com (eBay Listing No. 400615627314). I

1 reported the infringement to eBay, but it failed to remove the infringement. True  
2 and correct copies of the notice and infringement(s) as they existed on eBay.com  
3 on November 28, 2013 are attached hereto as Exhibits 52 and 53.

4 159. On or about December 9, 2013 (eBay Listing No. 400620458209) and December  
5 14, 2013 (eBay Listing No. 400626202206), I discovered that a seller by the name  
6 of "menofwood" had again posted an auction on eBay.com with the same  
7 unauthorized copy of one of my Joanna Krupa photographs (Work 11) as was in  
8 the November 28, 2013 auction. I reported the infringements to eBay, but it  
consistently failed to remove the infringements.

9 160. The last known date that the November 28 (eBay Listing No. 400615627314) and  
10 December 9 (eBay Listing No. 400620458209) listings remained active and  
11 available was December 20, 2013. A true and correct copy of the November 28  
12 and December 9 listings as they existed December 20, 2013 on are attached hereto  
as Exhibits 54 and 55.

13 161. It is unknown when eBay finally removed all the listings including the December  
14 14 (eBay Listing No. 400626202206) 2013 listing as it has failed to produce such  
15 documents in discovery.

16 162. [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 163. On or about July 17, 2014, I discovered that a seller by the name of "menofwood"  
20 had again made and posted an unauthorized copy of one of my Joanna Krupa  
21 photographs (Work 11) on eBay.com (eBay Listing No. 400615627314) after this  
22 lawsuit was filed. True and correct copies of the notice and infringement(s) as they  
23 existed on eBay.com on July 17, 2014 are attached hereto as Exhibits 56 and 57.  
24

**Work 12: Sofia Vergara: VA 1-230-935: Published Works 2001 Pt 1****autry515 infringements**

164. On or about September 4, 2013, I discovered that an eBay seller by the name of “autry515” had made and posted an unauthorized copy of one of my Sofia Vergara photographs (Work 12) on eBay.com (eBay Listing No. 181209011280). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 2 and 3.

165. On or about September 14, 2013, I discovered that a seller by the name of “autry515” had again posted an auction on eBay.com with the same unauthorized copy of one of my Sofia Vergara photographs (Work 12) as was in the September 4, 2013 auction (eBay Listing No. 181216527316). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 14, 2013 are attached hereto as Exhibits 4 and 5.

166. [REDACTED]

167. The last known date that the September 14, 2013 listing remained active and available was November 20, 2013 and shows that the Work was sold for \$6.08. A true and correct copies of listing as it existed on eBay.com on November 20, 2013 are attached hereto as Exhibit 6.

**Work 13: Sofia Vergara: VA 1-230-935: Published Works 2001 Pt 1****autry515 infringements**

168. On or about September 4, 2013, I discovered that an eBay seller by the name of “autry515” had made and posted an unauthorized copy of one of my Sofia Vergara photographs (Work 13) on eBay.com (eBay Listing No. 181209011280). I reported

1 the infringement to eBay, but it failed to remove the infringement. True and correct  
 2 copies of the notice and infringement(s) as they existed on eBay.com on September  
 3 4, 2013 are attached hereto as Exhibits 2 and 3.

4 169. On or about September 14, 2013, I discovered that a seller by the name of  
 5 “autry515” had again posted an auction on eBay.com with the same unauthorized  
 6 copy of one of my Sofia Vergara photographs (Work 13) as was in the September  
 7 4, 2013 auction (eBay Listing No. 181216527316). I reported the infringement to  
 8 eBay, but it failed to remove the infringement. True and correct copies of the  
 9 notice and infringement(s) as they existed on eBay.com on September 14, 2013 are  
 10 attached hereto as Exhibits 4 and 5.

11 170. [REDACTED]  
 12 [REDACTED]  
 13 [REDACTED]

14 171. The last known date that the September 14, 2013 listing remained active and  
 15 available was November 20, 2013 and shows that the Work was sold for \$6.08. A  
 16 true and correct copies of listing as it existed on eBay.com on November 20, 2013  
 17 are attached hereto as Exhibit 6.

18 172. It is unknown when eBay finally removed the listing as it has failed to produce  
 19 such documents in discovery.

**veteranofwar print infringement**

20 173. On or about September 4, 2013, I discovered that a seller by the name of  
 21 “veteranofwar” had posted an unauthorized copy of an 8x10 photo print of one of  
 22 my Sofia Vergara photographs (Work 13) for sale on eBay.com (eBay Listing No.  
 23 261279279621) and had also made and posted unauthorized copies of said print. I  
 24 reported the infringement to eBay and the listing was removed, but the  
 unauthorized image file was not removed from eBay’s servers. True and correct  
 copies of the notice and infringement(s) as they existed on eBay.com on September

4, 2013 are attached hereto as Exhibits 7 and 8.

174. On or about September 4, 2013, I discovered that a seller by the name of “veteranofwar” had again willfully reposted an unauthorized copy of an 8x10 photo print of one of my Sofia Vergara photographs (Work 13) for sale on eBay.com (eBay Listing No. number 261279983179) and had also made and posted unauthorized copies of said print. I reported the infringement to eBay and the listing was removed. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 10 and 11.

175. On or about September 18, 2013, I discovered that a seller by the name of “veteranofwar” had, for the second time, willfully reposted an auction on eBay.com with the same unauthorized copy of one of my Sofia Vergara photographs (Work 13) as was in the September 4, 2013 auction (eBay Listing No. 261289024520). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 18, 2013 are attached hereto as Exhibits 13 and 14 and of the Jpeg image file as it existed on eBay image servers on September 18 2013 is attached hereto as Exhibit 15.

176. The last known date that the image url/links remained active and available was November 20, 2013. A true and correct copy of the images from all three listings as they were still active on eBay’s servers on November 20, 2013 is attached hereto as Exhibits 9, 12 and 16.

177. It is unknown when eBay finally removed the image(s) as it has failed to produce such documents in discovery.

**Work 14: Sofia Vergara: VA 1-230-935: Published Works 2001 Pt 1**

**autry515 infringements**

178. On or about September 4, 2013, I discovered that an eBay seller by the name of

“autry515” had made and posted an unauthorized copy of one of my Sofia Vergara photographs (Work 14) on eBay.com (eBay Listing No. 181209011280). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 2 and 3.

179. On or about September 14, 2013, I discovered that a seller by the name of “autry515” had again posted an auction on eBay.com with the same unauthorized copy of one of my Sofia Vergara photographs (Work 14) as was in the September 4, 2013 auction (eBay Listing No. 181216527316). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 14, 2013 are attached hereto as Exhibits 4 and 5.

180. [REDACTED]

181. The last known date that the September 14, 2013 listing remained active and available was November 20, 2013 and shows that the Work was sold for \$6.08. A true and correct copies of listing as it existed on eBay.com on November 20, 2013 are attached hereto as Exhibit 6.

182. It is unknown when eBay finally removed the listing as it has failed to produce such documents in discovery.

**Work 15: Sofia Vergara: VA 1-230-935: Published Works 2001 Pt 1**

**autry515 infringements**

183. On or about September 4, 2013, I discovered that an eBay seller by the name of “autry515” had made and posted an unauthorized copy of one of my Sofia Vergara photographs (Work 15) on eBay.com (eBay Listing No. 181209011280). I reported the infringement to eBay, but it failed to remove the infringement. True and correct

1 copies of the notice and infringement(s) as they existed on eBay.com on September  
2 4, 2013 are attached hereto as Exhibits 2 and 3.

3 184. On or about September 14, 2013, I discovered that a seller by the name of  
4 “autry515” had again posted an auction on eBay.com with the same unauthorized  
5 copy of one of my Sofia Vergara photographs (Work 15) as was in the September  
6 4, 2013 auction (eBay Listing No. 181216527316). I reported the infringement to  
7 eBay, but it failed to remove the infringement. True and correct copies of the  
8 notice and infringement(s) as they existed on eBay.com on September 14, 2013 are  
9 attached hereto as Exhibits 4 and 5.

10 185. [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 186. The last known date that the September 14, 2013 listing remained active and  
14 available was November 20, 2013 and shows that the Work was sold for \$6.08. A  
15 true and correct copies of listing as it existed on eBay.com on November 20, 2013  
16 are attached hereto as Exhibit 6.

17 187. It is unknown when eBay finally removed the listing as it has failed to produce  
18 such documents in discovery.

19 **Work 16: Sofia Vergara: VA 1-230-935: Published Works 2001 Pt 1**

20 **autry515 infringements**

21 188. On or about September 4, 2013, I discovered that an eBay seller by the name of  
22 “autry515” had made and posted an unauthorized copy of one of my Sofia Vergara  
23 photographs (Work 16) on eBay.com (eBay Listing No. 181209011280). I reported  
24 the infringement to eBay, but it failed to remove the infringement. True and correct  
copies of the notice and infringement(s) as they existed on eBay.com on September  
4, 2013 are attached hereto as Exhibits 2 and 3.

189. On or about September 14, 2013, I discovered that a seller by the name of

1 “autry515” had again posted an auction on eBay.com with the same unauthorized  
 2 copy of one of my Sofia Vergara photographs (Work 16) as was in the September  
 3 4, 2013 auction (eBay Listing No. 181216527316). I reported the infringement to  
 4 eBay, but it failed to remove the infringement. True and correct copies of the  
 5 notice and infringement(s) as they existed on eBay.com on September 14, 2013 are  
 6 attached hereto as Exhibits 4 and 5.

190. [REDACTED]

7 [REDACTED]  
 8 [REDACTED]  
 9 191. The last known date that the September 14, 2013 listing remained active and  
 10 available was November 20, 2013 and shows that the Work was sold for \$6.08. A  
 11 true and correct copies of listing as it existed on eBay.com on November 20, 2013  
 12 are attached hereto as Exhibit 6.

13 192. It is unknown when eBay finally removed the listing as it has failed to produce  
 14 such documents in discovery.

**Work 17: Sofia Vergara: VA 1-230-935: Published Works 2001 Pt 1**

**autry515 infringements**

15  
 16 193. On or about September 4, 2013, I discovered that an eBay seller by the name of  
 17 “autry515” had made and posted an unauthorized copy of one of my Sofia Vergara  
 18 photographs (Work 17) on eBay.com (eBay Listing No. 181209011280). I reported  
 19 the infringement to eBay, but it failed to remove the infringement. True and correct  
 20 copies of the notice and infringement(s) as they existed on eBay.com on September  
 21 4, 2013 are attached hereto as Exhibits 2 and 3.

22 194. On or about September 14, 2013, I discovered that a seller by the name of  
 23 “autry515” had again posted an auction on eBay.com with the same unauthorized  
 24 copy of one of my Sofia Vergara photographs (Work 17) as was in the September  
 4, 2013 auction (eBay Listing No. 181216527316). I reported the infringement to

eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 14, 2013 are attached hereto as Exhibits 4 and 5.

195. [REDACTED]

196. The last known date that the September 14, 2013 listing remained active and available was November 20, 2013 and shows that the Work was sold for \$6.08. A true and correct copies of listing as it existed on eBay.com on November 20, 2013 are attached hereto as Exhibit 6.

197. It is unknown when eBay finally removed the listing as it has failed to produce such documents in discovery.

**Work 18: Jeri Ryan: VA 1-231-031: Published Works 1997 Pt 1**

**tensistersimages infringements**

198. On or about September 13, 2013, I discovered that a seller by the name of “tensistersimages” had posted an unauthorized copy of an 8x10 photo print of one of my Jeri Ryan photographs (Work 18) for sale on eBay.com and had also made and posted an unauthorized copy(ies) of said print (eBay Listing No. 251338494940). I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on September 13, 2013 are attached hereto as Exhibit 101 and of the Jpeg image file as it existed on eBay image servers on September 13, 2013 is attached hereto as Exhibit 102.

199. The last known date that the image url/link remained active and available was November 20 2013. A true and correct copy of the image as it was still active on eBay’s servers on November 20 2013 is attached hereto as Exhibit 103.

200. It is unknown when eBay finally removed the image as it has failed to produce

1 such documents in discovery.

2 201. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 **Work 19: Priscilla Taylor: VA 1-230-934: Published Works 2003 Pt 1**

6 **stass22 infringements**

7 202. On or about September 4, 2013, I discovered that a seller by the name of "stass22"  
8 had made and posted an unauthorized copy of one of my Priscilla Taylor  
9 photographs (Work 19) on eBay.com (eBay Listing Nos. 370884146040 and  
10 370877354968). I reported the infringement(s) to eBay, but it failed to remove the  
11 infringement(s). True and correct copies of the infringement(s) as they existed on  
12 eBay.com on September 4, 2013 are attached hereto as Exhibits 72 and 73.

13 203. On or about September 18, 2013, I again sent another notice to eBay for the same  
14 Work as September 4, 2013 (eBay Listing No. 370884146040 and 370877354968).  
15 I reported the infringements to eBay, but it failed to remove the infringements.  
16 True and correct copies of the notice and infringement(s) as they existed on  
17 eBay.com on September 18, 2013 are attached hereto as Exhibits 74, 75 and 76.

18 204. On or about September 15, 2013 (eBay Listing No. 370897446304), September 18,  
19 2013 (eBay Listing No. 370890410601), September 26, 2013 (eBay Listing No.  
20 370904979249), October 4, 2013 (eBay Listing No. 370912243438), October 14,  
21 2013 (eBay Listing No. 370917866069), November 8, 2013 (eBay Listing No.  
22 370933304566), November 13, 2013 (eBay Listing No. 370940363092),  
23 November 22, 2013 (eBay Listing No. 370948288076), December 2, 2013 (eBay  
24 Listing No. 370955586687) and December 11, 2013 (eBay Listing No.  
370962368620), I discovered that a seller by the name of "stass22" had again  
posted an auction on eBay.com with the same unauthorized copy of one of my  
Priscilla Taylor photographs (Work 19) as was in the September 4, 2013 auction. I

1 reported the infringements to eBay, but it failed to remove the infringements.

2 205. The last known date that the September 4 (eBay Listing Nos. 370884146040 and  
3 370877354968), September 15 (eBay Listing No. 370897446304), September 18  
4 (eBay Listing No. 370890410601), September 26 (eBay Listing No.  
5 370904979249), October 4 (eBay Listing No. 370912243438), October 14 (eBay  
6 Listing No. 370917866069), November 8 (eBay Listing No. 370933304566),  
7 November 22 (eBay Listing No. 370948288076), December 2 (eBay Listing No.  
8 370955586687) listings remained active and available was November 20, 2013.  
9 The November 22 (eBay Listing No. 370948288076), December 2 (eBay Listing  
10 No. 370955586687) listings were last known to be active on December 20, 2013.  
11 True and correct copies of September 4 and November 22 listings as they existed  
12 on eBay.com on November 20, December 20 are attached hereto as Exhibits 77, 78  
13 and 79.

14 206. It is unknown when eBay finally removed the December 11 (eBay Listing No.  
15 370962368620) and all of the listings as it has failed to produce such documents in  
16 discovery.

17 ***kasiaemilia1 Infringements after the Second Amended Complaint***

18 207. [REDACTED]  
19 [REDACTED]  
20 [REDACTED] On or about January 7, 2014, I discovered that this seller  
21 had made and posted an unauthorized copy of one of my Priscilla Taylor  
22 photographs (Work 19) on eBay.com. True and correct copies of the  
23 infringement(s) as they existed on eBay.com on September 4, 2013 are attached  
24 hereto as Exhibit 80.

**Work 20: Priscilla Taylor: VA 1-230-934: Published Works 2003 Pt 1**

***stass22 infringements***

208. On or about September 4, 2013, I discovered that a seller by the name of "stass22"

1 had made and posted an unauthorized copy of one of my Priscilla Taylor  
 2 photographs (Work 20) on eBay.com (eBay Listing Nos. 370884146040 and  
 3 370877354968). I reported the infringement(s) to eBay, but it failed to remove the  
 4 infringement(s). True and correct copies of the infringement(s) as they existed on  
 5 eBay.com on September 4, 2013 are attached hereto as Exhibits 72 and 73.

209. On or about September 18, 2013, I again sent another notice to eBay for the same  
 6 Work as September 4, 2013 (eBay Listing Nos. 370884146040 and  
 7 370877354968). I reported the infringement(s) to eBay, but it failed to remove the  
 8 infringement(s). True and correct copies of the notice and infringement(s) as they  
 9 existed on eBay.com on September 18, 2013 are attached hereto as Exhibits 74, 75  
 10 and 76.

11 210. On or about September 15, 2013 (eBay Listing No. 370897446304), September 18,  
 12 2013 (eBay Listing No. 370890410601), September 26, 2013 (eBay Listing No.  
 13 370904979249), October 4, 2013 (eBay Listing No. 370912243438), October 14,  
 14 2013 (eBay Listing No. 370917866069), November 8, 2013 (eBay Listing No.  
 15 370933304566), November 13, 2013 (eBay Listing No. 370940363092),  
 16 November 22, 2013 (eBay Listing No. 370948288076), December 2, 2013 (eBay  
 17 Listing No. 370955586687) and December 11, 2013 (eBay Listing No.  
 18 370962368620), I discovered that a seller by the name of "stass22" had again  
 19 posted an auction on eBay.com with the same unauthorized copy of one of my  
 20 Priscilla Taylor photographs (Work 20) as was in the September 4, 2013 auction. I  
 21 reported the infringements to eBay, but it failed to remove the infringements.

22 211. The last known date that the September 4 (eBay Listing Nos. 370884146040 and  
 23 370877354968), September 15 (eBay Listing No. 370897446304), September 18  
 24 (eBay Listing No. 370890410601), September 26 (eBay Listing No.  
 370904979249), October 4 (eBay Listing No. 370912243438), October 14 (eBay  
 Listing No. 370917866069), November 8 (eBay Listing No. 370933304566),

November 22 (eBay Listing No. 370948288076), December 2 (eBay Listing No. 370955586687) listings remained active and available was November 20, 2013. The November 22 (eBay Listing No. 370948288076), December 2 (eBay Listing No. 370955586687) listings were last known to be active on December 20, 2013. True and correct copies of September 4 and November 22 listings as they existed on eBay.com on November 20, December 20 are attached hereto as Exhibits 77, 78 and 79.

212. It is unknown when eBay finally removed the December 11 (eBay Listing No. 370962368620) and all of the listings as it has failed to produce such documents in discovery.

***kasiaemilia1 Infringements after the Second Amended Complaint***

213. [REDACTED]  
[REDACTED]  
[REDACTED] On or about January 7, 2014, I discovered that this seller had made and posted an unauthorized copy of one of my Priscilla Taylor photographs (Work 20) on eBay.com. True and correct copies of the infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibit 80.

**Work 21: Daisy Fuentes: VA 1-239-762: Published Works 2003 Pt 2**

***aitx infringements***

214. On or about October 2, 2013, I discovered that a seller by the name of "aitx" had posted an unauthorized copy of an 8x10 photo print of one of my Daisy Fuentes photographs (Work 21) for sale on eBay.com and had also made and posted an unauthorized copy(ies) of said print (eBay Listing No. 151135225016). I reported the infringement to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on October 2, 2013 are attached hereto as Exhibits 81 and of the Jpeg image file as it existed on eBay image servers

on October 2, 2013 is attached hereto as Exhibit 82.

215. The last known date that the image url/link remained active and available was November 20 2013. A true and correct copy of the image as it was still active on eBay's servers on November 20 2013 is attached hereto as Exhibit 83.

216. It is unknown when eBay finally removed the infringing image file as it has failed to produce such documents in discovery.

**Work 22: Daisy Fuentes: VAu692-230: Daisy Fuentes**

**aitx infringements**

217. On or about October 2, 2013, I discovered that a seller by the name of "aitx" had posted an unauthorized copy of an 8x10 photo print of one of my Daisy Fuentes photographs (Work 22) for sale on eBay.com and had also made and posted an unauthorized copy(ies) of said print (eBay Listing No. 400582417916). I reported the infringement to eBay and the listing was removed.

218. True and correct copies of the infringement(s) as they existed on eBay.com on October 2, 2013 are attached hereto as Exhibits 84 and of the Jpeg image file as it existed on eBay image servers on October 2, 2013 is attached hereto as Exhibit 85.

219. The last known date that the image url/link remained active and available was November 20, 2013. A true and correct copy of the image as it was still active on eBay's servers on November 20, 2013 is attached hereto as Exhibit 86.

220. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

**Work 23: Tawny Kitaen: VA 1-230-940: Published Works 1995 Pt 1**

**philcobb infringements**

221. On or about September 27, 2013, I discovered that a seller by the name of "philcobb" had posted or been posting multiple auctions with an unauthorized copy of an 8x10 photo print of one of my Tawny Kitaen photographs (Work 23) for sale on eBay.com and had also made and posted an unauthorized copy(ies) of said

1 print. I reported the infringements to eBay and the listing was removed. True and  
 2 correct copies of one of the listings/ infringement(s) as they existed on eBay.com  
 3 on September 27, 2013 are attached hereto as Exhibits 104 and of the Jpeg image  
 4 file as it existed on eBay image servers on 27, 2013 is attached hereto as Exhibit  
 5 104.

6 222. The last known date that the image url/link remained active and available was  
 7 November 20, 2013. A true and correct copy of the image as it was still active on  
 8 eBay's servers on November 20, 2013 is attached hereto as Exhibit 106.

9 223. It is unknown when eBay finally removed the image as it has failed to produce  
 10 such documents in discovery.

11 **Work 24: Gena Lee Nolin: VA 1-230-933: Published Works 2000 Pt 1**

12 **1stchoicephotosandposters infringements**

13 224. On or about September 27, 2013, I discovered that a seller by the name of  
 14 "1stchoicephotosandposters" had posted an unauthorized copy of an 8x10 photo  
 15 print utilizing of one of my Gena Lee Nolin photographs (Work 24) for sale on  
 16 eBay.com (eBay Listing No. 370908300111) and had also made and posted an  
 17 unauthorized copy(ies) of said print. I reported the infringements to eBay and the  
 18 listing was removed.

19 225. True and correct copies of the infringement(s) as they existed on eBay.com on  
 20 September 27, 2013 are attached hereto as Exhibits 126 and of the Jpeg image file  
 21 as it existed on eBay image servers on September 27, 2013 is attached hereto as  
 22 Exhibit 127.

23 226. It is unknown if or when the unauthorized image files were removed from eBay's  
 24 servers.

227. [REDACTED]  
 [REDACTED]  
 [REDACTED]

**Work 25: Anna Kournikova: VA 1-239-760: Anna Kournikova 14****westcoastrackers infringements**

228. On or about September 18, 2013, I discovered that a seller by the name of “westcoastrackers” had willfully re-posted an unauthorized copy of an 8x10 photo print utilizing of one of my Anna Kournikova photographs (Work 25) for sale on eBay.com (eBay Listing No. 151124754041) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed. The Work had been previously posted on eBay by westcoastrackers on April 27, 2012 and had been removed at or around that time, and westcoastrackers should have been made aware at that time of the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 18, 2013 are attached hereto as Exhibits 118 and 119 and of the Jpeg image file as it existed on eBay image servers on September 18, 2013 is attached hereto as Exhibit 120, along with the notice and April 27, 2012 infringement are attached hereto as Exhibits 122 and 123.

229. The last known date that the image url/link remained active and available was October 2, 2013. A true and correct copy of the image as it was still active on eBay’s servers on October 2, 2013 is attached hereto as Exhibit 120.

230. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

**khw infringement**

231. On or about November 18, 2013, I discovered that a seller by the name of “khw” had posted an unauthorized copy of an copy of an 8x10 photo print utilizing of one of my Anna Kournikova photographs (Work 25) for sale on eBay.com (eBay Listing No. 360797804154) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on

eBay.com on November 18, 2013 are attached hereto as Exhibits 124.

232. The last known date that the image url/link remained active and available was November 22, 2013. A true and correct copy of the image as it was still active on eBay's servers on November 22, 2013 is attached hereto as Exhibit 125.

233. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

234. [REDACTED]

**Work 26: Gena Lee Nolin: VA 1-230-948: Gena Lee Nolin 11**

**superstargallery infringements**

235. On or about October 14, 2013, I discovered that a seller by the name of "superstargallery" had posted an unauthorized copy of an copy of an 8x10 photo print utilizing of one of my Gena Lee Nolin photographs (Work 26) for sale on eBay.com (eBay Listing No. 261304359887) and had also made and posted an unauthorized copy (ies) of said print. I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on October 14, 2013 are attached hereto as Exhibit 128 and of the Jpeg image file as it existed on eBay image servers on October 14, 2013 is attached hereto as Exhibit 129.

236. The last known date that the image url/link remained active and available was November 20, 2013. A true and correct copy of the image as it was still active on eBay's servers on November 20, 2013 is attached hereto as Exhibit 130.

237. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

**Worthpoint infringement**

238. On or about November 4, 2013, I discovered that Worthpoint.com had posted an

1 unauthorized copy of a copy of an 8x10 photo print utilizing of one of my Gena  
 2 Lee Nolin photographs (Work 26) that had been offered for sale and sold on  
 3 eBay.com. Based on the information contained on both worthpoint.com and  
 4 eBay.com, it is apparent to me that eBay unlawfully licensed the photo to  
 5 worthpoint.com and that eBay had sold the Work. True and correct copies of the  
 6 infringement(s) as they existed on worthpoint.com on November 4, 2013, along  
 7 with copies of Worthpoint's Work removal request form and press release showing  
 8 that eBay licenses photos to Worthpoint via its apparent agent Terapeak (formally  
 9 Advanced Ecommerce Research Systems) are attached hereto as Exhibits 173, 169  
 and 170.

10 **Work 27: Ali Landry: VAu660-263: Ali Landry**

11 **Worthpoint infringement**

12 239. On or about November 4, 2013, I discovered that Worthpoint.com had posted an  
 13 unauthorized copy of a copy of an 8x10 photo print utilizing of one of my Ali  
 14 Landry photographs (Work 27) that had been offered for sale and sold on  
 15 eBay.com. Based on the information contained on both worthpoint.com and  
 16 eBay.com, it is apparent to me that eBay unlawfully licensed the photo to  
 17 worthpoint.com and that eBay had sold the Work. True and correct copies of the  
 18 infringement(s) as they existed on worthpoint.com on November 4, 2013, along  
 19 with copies of Worthpoint's Work removal request form and press release showing  
 20 that eBay licenses photos to Worthpoint via its apparent agent Terapeak (formally  
 Advanced Ecommerce Research Systems) are attached hereto as Exhibits 172, 169  
 and 170.

21 **dave-charles-art infringement**

22 240. On or about October 17, 2013, I discovered that a seller by the name of "dave-  
 23 charles-art" had posted an unauthorized copy of an copy of an 8x10 photo print  
 24 utilizing of one of my Ali Landry photographs (Work 27) for sale on eBay.com

(eBay Listing No. 310771160208) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on October 17, 2013 are attached hereto as Exhibits 131 and of the Jpeg image file as it existed on eBay image servers on October 17, 2013 is attached hereto as Exhibit 132.

241. The last known date that the image url/link remained active and available was November 20, 2013. A true and correct copy of the image as it was still active on eBay's servers on November 20, 2013 is attached hereto as Exhibit 133.

242. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

243.

[REDACTED]

**Work 28: Angela Taylor: VA 1-289-516: Published Works 2004 Pt 2**

**kevol44 infringement**

244. On or about October 20, 2013, I discovered that a seller by the name of "kevol44" had made and posted an unauthorized copy of one of my Angela Taylor photographs (Work 28) on eBay.com (eBay Listing No. 380434485602). I reported the infringement to eBay. eBay initially removed the Work and then willfully re-posted it on October 21, 2013. (See eBay Exhibit A, Exhibit 1 to Dion-Kindem Declaration.) True and correct copies of the infringement(s) as they existed on eBay.com on October 20, 2013 and the email showing the removal and the re-posted Work online as of November 25, 2013 are attached hereto as Exhibits 87, 88 and 89.

245. On or about October 29, 2013, I discovered that a seller by the name of "kevol44" had again willfully reposted an auction on eBay.com with the same unauthorized

1 copy of one of my Angela Taylor photographs (Work 28) as was in the October 20,  
 2 2013 auction (eBay Listing No. 380753700105). I reported the infringement to  
 3 eBay, but it failed to remove the infringement. True and correct copies of notice,  
 4 October 29, 2013 listing as it existed on eBay.com on December 20 are attached  
 5 hereto as Exhibits 90 and 91.

6 246. It is unknown when eBay finally removed the listing as it has failed to produce  
 7 such documents in discovery.

8 247. [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]

11 **backissuemagazinesnew infringement**

12 248. On or about November 20, 2013, I discovered that a seller by the name of  
 13 “backissuemagazinesnew” had made and posted an unauthorized copy of one of  
 14 my Angela Taylor photographs (Work 28) on eBay.com (eBay Listing No.  
 15 180596330604). I reported the infringement to eBay, but eBay failed to remove the  
 16 infringement. True and correct copies of the infringement(s) as they existed on  
 17 eBay.com on November 20, 2013 are attached hereto as Exhibits 92.

18 249. On or about March 20, 2014, I send a second notice for the same Work that I had  
 19 reported to eBay on November 20, 2013 (eBay Listing No. 180596330604) as  
 20 eBay had allowed the Work to remain for sale in violation of its own terms and  
 21 conditions due to the fact that it had removed the image from the listing. Because it  
 22 had failed to fully remove the listing, or all images related to the listing, an  
 23 infringing copy of the image remained available in search results. eBay failed to  
 24 take steps to remove after receiving the second notice until March 30, 2014. True  
 and correct copies of notice, the listing as it existed on March 20, 2014, and the  
 March 30, 2014 removal email from eBay are attached hereto as Exhibits 93, 94  
 and 95.

1 250. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 251. On or about June 22, 2014, I discovered that a seller by the name of

5 “backissuemagazinesnew” had made and posted an unauthorized copy of one of

6 my Gena Lee Nolin photographs on eBay.com (eBay Listing No. 171363513827).

7 This was the 14<sup>th</sup> infringement of my photographic works by this seller and the 15<sup>th</sup>

8 notice. True and correct copies of the notice and infringement(s) as they existed on

9 eBay.com on June 22, 2014 are attached hereto as Exhibits 98 and 99.

**kevol44 and backissuemagazinesnew images on Google**

10 252. On or about November 20, 2013, I discovered the images related to the “kevol44”

11 and “backissuemagazinesnew” listings were displayed in google images search

12 results. True and correct copies of the in google images search results on

13 November 20, 2013 are attached hereto as Exhibit 100.

**Work 29: Natalia Sokolova: VA 1-230-923: Published Works 2002 Pt 1**

**kasiaemilia1 infringement**

14

15 253. On or about September 4, 2013, I discovered that a seller by the name of

16 “kasiaemilia1” had made and posted an unauthorized copy of one of my Natalia

17 Sokolova photographs (Work 29) on eBay.com (eBay Listing No. 290969872836).

18 I reported the infringement to eBay, but it failed to remove the infringement. True

19 and correct copies of the notice and infringement(s) as they existed on eBay.com

20 on September 4, 2013 are attached hereto as Exhibits 68 and 69.

21 254. On or about September 8, 2013 (eBay Listing No. 290973472797), September 14,

22 2013 (eBay Listing No. 290977784427), September 23, 2013 (eBay Listing No.

23 290982319241), October 1, 2013 (eBay Listing No. 290987012062), October 7,

24 2013 (eBay Listing No. 290991089101), October 14, 2013 (eBay Listing No.

290993511233), October 19, 2013 (eBay Listing No. 290997408595), October 24,

2013 (eBay Listing No. 291002131018), October 31, 2013 (eBay Listing No. 291006862414), November 8, 2013 (eBay Listing No. 291010799137), November 13, 2013 (eBay Listing No. 291016057083), November 20, 2013 (eBay Listing No. 291021159985), November 28, 2013 (eBay Listing No. 291026379897), December 9, 2013 (eBay Listing No. 291033831397) and December 16, 2013 (eBay Listing No. 291038568540), I discovered that a seller by the name of “kasiaemilia1” had again posted an auction on eBay.com with the same unauthorized copy of one of my Natalia Sokolova photographs (Work 29) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the infringements.

255. The last known date that the September 4 (eBay Listing No. 290969872836), September 8 (eBay Listing No. 290973472797), September 14 (eBay Listing No. 290977784427), September 23 (eBay Listing No. 290982319241), October 1 (eBay Listing No. 290987012062), October 7 (eBay Listing No. 290991089101), October 14 (eBay Listing No. 290993511233), October 19 (eBay Listing No. 290997408595), October 24 (eBay Listing No. 291002131018), October 31 (eBay Listing No. 291006862414), November 8 (eBay Listing No. 291010799137), November 13 (eBay Listing No. 291016057083) listings remained active and available was November 20, 2013. November 20 (eBay Listing No. 291021159985), November 28 (eBay Listing No. 291026379897) listings were last known to be active on December 13, 2013. True and correct copies of September 4 and November 28 listings as they existed on eBay.com on November 20, December 13 are attached hereto as Exhibits 70 and 71.

256. It is unknown when eBay finally removed the December 16 (eBay Listing No. 291038568540) and all of the listings as it has failed to produce such documents in discovery. [REDACTED]

**Work 30: Natalia Sokolova: VA 1-230-923: Published Works 2002 Pt 1*****kasiaemilia1 infringement***

257. On or about September 4, 2013, I discovered that a seller by the name of “kasiaemilia1” had made and posted an unauthorized copy of one of my Natalia Sokolova photographs (Work 30) on eBay.com (eBay Listing No. 290969872836). I reported the infringement to eBay, but it failed to remove the infringement. True and correct copies of the notice and infringement(s) as they existed on eBay.com on September 4, 2013 are attached hereto as Exhibits 68 and 69.
258. On or about September 8 (eBay Listing No. 290973472797), September 14 (eBay Listing No. 290977784427), September 23 (eBay Listing No. 290982319241), October 1 (eBay Listing No. 290987012062), October 7 (eBay Listing No. 290991089101), October 14 (eBay Listing No. 290993511233), October 19 (eBay Listing No. 290997408595), October 24 (eBay Listing No. 291002131018), October 31 (eBay Listing No. 291006862414), November 8 (eBay Listing No. 291010799137), November 13 (eBay Listing No. 291016057083), November 20 (eBay Listing No. 291021159985), November 28 (eBay Listing No. 291026379897), December 9 (eBay Listing No. 291033831397) and December 16 (eBay Listing No. 291038568540), 2013. I discovered that a seller by the name of “kasiaemilia1” had again posted an auction on eBay.com with the same unauthorized copy of one of my Natalia Sokolova photographs (Work 30) as was in the September 4, 2013 auction. I reported the infringements to eBay, but it failed to remove the infringements.
259. The last known date that the September 4 (eBay Listing No. 290969872836), September 8 (eBay Listing No. 290973472797), September 14 (eBay Listing No. 290977784427), September 23 (eBay Listing No. 290982319241), October 1 (eBay

Listing No. 290987012062), October 7 (eBay Listing No. 290991089101), October 14 (eBay Listing No. 290993511233), October 19 (eBay Listing No. 290997408595), October 24 (eBay Listing No. 291002131018), October 31 (eBay Listing No. 291006862414), November 8 (eBay Listing No. 291010799137), November 13 (eBay Listing No. 291016057083) listings remained active and available was November 20, 2013. The November 20 (eBay Listing No. 291021159985) and November 28 (eBay Listing No. 291026379897) listings were last known to be active on December 13, 2013. True and correct copies of September 4 and November 28 listings as they existed on eBay.com on November 20, December 13 are attached hereto as Exhibits 70 and 71.

260. It is unknown when eBay finally removed the December 16 (eBay Listing No. 291038568540) and all of the listings as it has failed to produce such documents in discovery.

261.

[REDACTED]

**Work 31: Jeri Ryan: VA 1-231-030: Published Works 1998 Pt 1**

***konofrio79 infringements***

262. On or about October 31, 2013, I discovered that a seller by the name of “konofrio79” had posted an unauthorized copy of an copy of an 8x10 photo print utilizing of one of my Jeri Ryan photographs (Work 31) for sale on eBay.com (eBay Listing No. 321238934384) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed. True and correct copies of the infringement(s) as they existed on eBay.com on October 31, 2013 are attached hereto as Exhibit 134 and of the Jpeg image file as it existed on eBay image servers on October 31, 2013 is attached

hereto as Exhibit 135.

263. The last known date that the image url/link remained active and available was November 20, 2013. A true and correct copy of the image as it was still active on eBay's servers on November 20, 2013 is attached hereto as Exhibit 136.
264. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

**Work 32: Erika Eleniak: VAu692-231: Erika Eleniak**

**bluefly infringements**

265. On or about November 17, 2013, I discovered that a seller by the name of "bluefly64" had posted an unauthorized copy of an copy of an 8x10 photo print utilizing of one of my Erika Eleniak photographs (Work 32) for sale on eBay.com (eBay Listing No. 121214978174) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay, but the Works were not removed expeditiously. True and correct copies of the infringement(s) as they existed on eBay.com on November 17, 2013 are attached hereto as Exhibits 137 and of the Jpeg image file as it existed on eBay image servers on November 17, 2013 is attached hereto as Exhibit 138.
266. The last known date that the image url/link remained active and available was November 20, 2013. A true and correct copy of the image as it was still active on eBay's servers on November 20, 2013 is attached hereto as Exhibit 139.
267. Because I feared that the Work would not be removed expeditiously, I placed a bid and subsequently won the auction (purchased the Work). Since it still had not been removed hours later, I subsequently paid for the Work by PayPal. True and correct copies of the sales Notifications from eBay on November 17 and 18, 2013 are attached hereto as Exhibits 140, 141 and 142.
268. Sometime thereafter, eBay finally took steps to remove/disable the auction listing and notified me that it was "no longer available." The notification did not

specifically list the reason why the listing was no longer available and also indicated that the Work would still be delivered (since it was paid for). True and correct copies of the Notification from eBay on November 18, 2013 are attached hereto as Exhibit 143.

269. eBay failed to terminate the sale and/or return the money paid for the Work upon termination of the listing. I also never received the Work from the seller.

270. When I followed up on events to see what steps if any were available for a buyer to deal with a non-delivered Work, I discovered that eBay kept a kind of link for the buyer to be able to deal with any issues. When I opened up that link, I found information on the Work and a picture of the Work still active on eBay.com. True and correct copies of the link I found showing the photo on December 3, 2013 is attached hereto as Exhibit 144.

271. On or about November 20, 2013 about two days after the listing was removed from eBay, I was still able to find the image related to the listing via a Google search and the image on eBay's servers. True and correct copies of the google search showing the photo on November 20, 2013 are attached hereto as Exhibit 145, 146, and 147.

272. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

273.

[REDACTED]

**Work 33: Anna Kournikova: VA 1-239-761: Anna Kournikova 15**

**123-packfan infringements**

274. On or about September 5, 2013, I discovered that a seller by the name of "123-packfan" had posted or previously posted an unauthorized copy of an 8x10 photo print utilizing of one of my Anna Kournikova photographs (Work 33) for sale on

eBay.com (eBay Listing No. 390652989896) and had also made and posted an unauthorized copy (ies) of said print. I reported the infringements to eBay and the listing was removed, but the unauthorized image files were not removed from eBay's servers and continued to be displayed in eBay searches for some time thereafter. True and correct copies of the infringement(s) as they existed on eBay.com on September 5, 2013 are attached hereto as Exhibit 150 and an annotated excerpt as still shown in eBay searches on October 2, 2013 as Exhibit 148.

275. On or about September 5, 2013, I discovered that a seller by the name of "123-packfan" had sold at least one previously posted unauthorized copy of an 8x10 photo print utilizing of one of my Anna Kournikova photographs (Work 33). True and correct copies of the showing the sold Work (eBay Listing No. 161063672817) as they existed on eBay.com on September 5, 2013 are attached hereto as Exhibit 149 and an annotated excerpt as still shown in eBay searches on October 2, 2013 as Exhibit 150.

276. [REDACTED]

277. It is unknown when eBay finally removed the images as it has failed to produce such documents in discovery.

**Work 34: Anna Kournikova: VA 1-239-767: Anna Kournikova 1**

**\*madonna\* infringements**

278. On or about December 2, 2013, I discovered that a seller by the name of "\*madonna\*" was selling a magazine that contained unauthorized copies of one of my Anna Kournikova photographs (Work 34) and had made and posted unauthorized copy(ies) such photographs on eBay.com (eBay Listing No. 271335458444). I reported the infringement to eBay, but it failed to remove the

1 infringement. True and correct copies of the infringement(s) as they existed on  
2 eBay.com on December 2, 2013 are attached hereto as Exhibits 152. A copy of the  
3 Jpeg image file as it existed on eBay image servers on December 2, 2013 is  
4 attached hereto as Exhibit 153.

5 279. On or about December 30, 2013, I discovered that the listing (271335458444) still  
6 had not been removed and was still active, but without an image. A true and  
7 correct copy of the infringement(s) as it existed on eBay.com on December 30,  
8 2013 is attached hereto as Exhibit 57.

9 280. On or about January 2, 2014, I discovered that a seller by the name of  
10 “\*madonna\*” was selling a magazine that contained unauthorized copies of one of  
11 my Anna Kournikova photographs (Work 34) and had made and posted  
12 unauthorized copy(ies) of such photographs on eBay.com (eBay Listing No.  
13 271335458444). I reported the infringement to eBay, but it failed to remove the  
14 infringement. True and correct copies of the notice and infringement(s) as they  
15 existed on eBay.com on January 2, 2014 are attached hereto as Exhibits 154 and  
16 155.

17 281. After sending the January 2, 2014 notice, I also had some communications  
18 regarding the infringing activities and the removal of the image in the previous  
19 listing. True and correct copies of my January 2, 2014 emails with eBay are  
20 attached hereto as Exhibit 156.

21 282. Based on the email to the seller produced by eBay, it is clear that eBay did not take  
22 steps to remove either the December 2, 2013 or January 2, 2014 listings until  
23 January 9, 2014. True and correct copies of the email to the seller on January 9,  
24 2014 are attached hereto as Exhibit 158.

25 283. On or about March 20, 2014, I discovered that a seller by the name of  
26 “\*madonna\*” was selling a magazine that contained unauthorized copies of one of  
27 my Anna Kournikova photographs (Work 34) and had made and posted

1 unauthorized copy(ies) such photographs on eBay.com (eBay Listing No.  
2 360882096735). I reported the infringement to eBay and it removed the listing in  
3 about 18 hours. True and correct copies of the notice and infringement(s) as they  
4 existed on eBay.com on March 20, 2014 are attached hereto as Exhibits 159.

5 **Unauthorized images that had been posted on eBay were on Terapeak**

6 284. On or about June 24, 2014, while doing research on this case on Terapeak, I  
7 discovered that a seller by the name of “\*madonna\*” had offered for sale for the  
8 fourth time, a magazine that contained unauthorized copies of one of my Anna  
9 Kournikova photographs (Work 34) and had made and posted an unauthorized  
10 copy (ies) of this photograph on eBay.com (eBay Listing No. 271439560737). I  
11 reported the infringement to eBay and it removed the listing. True and correct  
12 copies of the notice and infringement(s) as they existed on eBay.com on June 24,  
13 2014 are attached hereto as Exhibits 159 and 160 and as they appeared on  
14 Terapeak with images on June 24, 2014 are attached hereto as Exhibit 161.

15 285. On or about June 24, 2014, while doing research on this case on Terapeak, I also  
16 discovered the December 2, 2013 listing (eBay Listing No. 271335458444) listing  
17 on Terapeak. True and correct copies of the December 2, 2013 listing as they  
18 appeared on Terapeak with images on June 24, 2014 are attached hereto as Exhibit  
19 162.

20 286. It is unknown when eBay finally removed the images as it has failed to produce  
21 such documents in discovery.

22 **Work 35: Anna Kournikova: VA 1-239-764: Anna Kournikova 10**

23 **\*madonna\* infringements**

24 287. On or about December 2, 2013, I discovered that a seller by the name of  
“\*madonna\*” was selling a magazine that contained unauthorized copies of, and  
had made and posted, an unauthorized copy(ies) of one of my Anna Kournikova  
photographs (Work 34) on eBay.com (eBay Listing No. 271335458444). I reported

1 the infringement to eBay, but it failed to remove the infringement. True and correct  
 2 copies of the infringement(s) as they existed on eBay.com on December 2, 2013  
 3 are attached hereto as Exhibits 152 and of the Jpeg image file as it existed on eBay  
 4 image servers on December 2, 2013 is attached hereto as Exhibit 153.

5 288. On or about December 30, 2013, I discovered that the listing (271335458444) still  
 6 had not been removed was still active, but that the image was not displayed with  
 7 the listing. A true and correct copy of the infringement(s) as it existed on  
 8 eBay.com on December 30, 2013 is attached hereto as Exhibit 57.

9 289. On or about January 2, 2014, I discovered that a seller by the name of  
 10 “\*madonna\*” was selling a magazine containing unauthorized copies of, and had  
 11 made and posted, unauthorized copy(ies) of one of my Anna Kournikova  
 12 photographs (Work 34) on eBay.com (eBay Listing No. 271335458444). I reported  
 13 the infringement to eBay, but it failed to remove the infringement. True and correct  
 14 copies of the notice and infringement(s) as they existed on eBay.com on January 2,  
 15 2014 are attached hereto as Exhibits 154 and 155.

16 290. After sending the January 2, 2014 notice, I also had some communications with  
 17 eBay regarding the infringing activities and the removal of the image in the  
 18 previous listing. True and correct copies of my January 2, 2014 emails with eBay  
 19 are attached hereto as Exhibit 156.

20 291. [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]

24 292. On or about March 20, 2014, I discovered that a seller by the name of  
 “\*madonna\*” was selling a magazine containing unauthorized copies of, and had  
 made and posted an unauthorized copy(ies) of, one of my Anna Kournikova  
 photographs (Work 34) on eBay.com (eBay Listing No. 360882096735). I reported

1 the infringement to eBay and it removed the listing in about 18 hours. True and  
 2 correct copies of the notice and infringement(s) as they existed on eBay.com on  
 3 March 20, 2014 are attached hereto as Exhibit 159.

4 293. On or about June 24, 2014, while doing research on this case on Terapeak, I  
 5 discovered that a seller by the name of “\*madonna\*” had offered for sale for the  
 6 4th time, a magazine containing unauthorized copies of, and had made and posted  
 7 an unauthorized copy (ies) of, one of my Anna Kournikova photographs (Work 34)  
 8 on eBay.com (eBay Listing No. 271439560737). I reported the infringement to  
 9 eBay and it removed the listing. True and correct copies of the notice and  
 10 infringement(s) as they existed on eBay.com on June 24, 2014 are attached hereto  
 11 as Exhibits 159 and 160 and as they appeared on Terapeak with images on June 24,  
 2014 are attached hereto as Exhibit 161.

12 294. On or about June 24, 2014, while doing research on this case on Terapeak, I also  
 13 discovered the December 2, 2013 (eBay Listing No. 271335458444) listing on  
 14 Terapeak. True and correct copies of the December 2, 2013 listing as they  
 15 appeared on Terapeak with images on June 24, 2014 are attached hereto as Exhibit  
 16 162.

17 295. It is unknown when eBay finally removed the images as it has failed to produce  
 18 such documents in discovery.

**Work 36: Gena Lee Nolin: VA 1-274-965: Gena Lee Nolin 3**

**hotcorner2980 infringements**

19 296. On or about December 13, 2013, I discovered that a seller by the name of  
 20 “hotcorner2980” had posted four (4) unauthorized copies of one of my Gena Lee  
 21 Nolin photographs (Work 36) on eBay.com (eBay Listing No. 111235524767). I  
 22 reported the infringements to eBay and the listing was removed but the  
 23 unauthorized photos were not removed from eBay’s servers. True and correct  
 24 copies of the infringement(s) as they existed on eBay.com on November 24, 2013,

1 are attached hereto as Exhibit 167.

2 297. It is unknown when eBay finally removed the images as it has failed to produce  
3 such documents in discovery.

4 298. [REDACTED]  
5 [REDACTED]  
6 [REDACTED]

### 7 **Worthpoint Infringement**

8 299. On or about December 11, 2013, I discovered that Worthpoint had posted on its  
9 website, Worthpoint.com, an unauthorized copy of an 8x10 photo print utilizing of  
10 one of my Gena Lee Nolin photographs (Work 36) that had been offered for sale  
11 and sold on eBay.com. Based on the information contained on both  
12 worthpoint.com and eBay.com, it is apparent to me that eBay unlawfully licensed  
13 the image to Terapeak, which in turn licensed the image to Worthpoint, and that  
14 eBay had sold the Work. True and correct copies of the infringement(s) as they  
15 existed on worthpoint.com on December 11, 2013, along with copies of  
16 Worthpoint's Work removal request form and press release showing that eBay  
17 licenses photos to Worthpoint via its apparent agent Terapeak (formally Advanced  
18 Ecommerce Research Systems) are attached hereto as Exhibits 168, 169 and 170.

### 19 **Work 37: Gena Lee Nolin: VA 1-230-952: Gena Lee Nolin 27**

#### 20 **Worthpoint infringements**

21 300. On or about November 4, 2013, I discovered that Worthpoint.com had posted an  
22 unauthorized copy of a copy of an 8x10 photo print utilizing of one of my Gena  
23 Lee Nolin photographs (Work 37) that had been offered for sale and sold on  
24 eBay.com. Based on the information contained on both worthpoint.com and  
eBay.com, it is apparent to me that eBay unlawfully licensed the image to  
Terapeak, which in turn licensed the image to Worthpoint, and that eBay had sold  
the Work. True and correct copies of the infringement(s) as they existed on

worthpoint.com on November 4, 2013, along with copies of Worthpoint's Work removal request form and press release showing that eBay licenses photos to Worthpoint via its apparent agent Terapeak (formally Advanced Ecommerce Research Systems) are attached hereto as Exhibits 171, 169 and 170.

**Work 38: Ali Landry: VAu660-263: Ali Landry**

**powerangers infringements**

301. On or about November 24, 2013, I discovered that a seller by the name of "powerangers" had posted an unauthorized copy of an copy of an 8x10 photo print utilizing of one of my Ali Landry photographs (Work 38) for sale on eBay.com (eBay Listing No. 390712954996) and had also made and posted an unauthorized copy(ies) of said print. I reported the infringements to eBay and the listing was removed, but the unauthorized photos were not removed from eBay's servers. True and correct copies of the infringement(s) as they existed on eBay.com on October 31, 2013 are attached hereto as Exhibits 162 and of the Jpeg image file as it existed on eBay image servers on October 31, 2013 is attached hereto as Exhibit 163.
302. The last known date that the image url/link remained active and available was December 12, 2013. A true and correct copy of the image as it was still active on eBay's servers on December 12, 2013 is attached hereto as Exhibit 164.
303. It is unknown when eBay finally removed the image as it has failed to produce such documents in discovery.

304. [REDACTED]

**Work 39: Anna Kournikova: VA 1-239-757: Anna Kournikova 7**

**historyofthegame infringements**


305. On or about December 11, 2013, I discovered that a seller by the name of "historyofthegame" had posted an unauthorized copy of an 8x10 photo print

1 utilizing of one of my Anna Kournikova photographs (Work 39) for sale on  
2 eBay.com and had also made and posted an unauthorized copy(ies) of said print  
3 (eBay Listing No. 141138310798). I reported the infringements to eBay and the  
4 listing was removed, but the unauthorized photos were not removed from eBay's  
5 servers. True and correct copies of the infringement(s) as they existed on  
6 eBay.com on December 11, 2013 are attached hereto as Exhibit 165 and of the  
7 Jpeg image file as it existed on eBay image servers on October 31, 2013 is attached  
8 hereto as Exhibit 166.

9 306. It is unknown when eBay finally removed the image as it has failed to produce  
10 such documents in discovery.

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct.

13 Dated: 9/4/14



14 Barry Rosen